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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision : November 04, 2024

SHRI DUTT

-PETITIONER

V/S

ANAND JAIN

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Rajesh Bansal, Advocate
for the petitioner.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, the petitioner assails the order dated 04.10.2024 (Annexure P-1), whereby, although the learned Additional Sessions Judge concerned has ordered his release on bail and suspended his sentence, however, the said concession has been extended subject to him depositing 20% of the compensation amount in the Court concerned, within a month therefrom.

2. As a matter of fact, the learned trial Court concerned has, through drawing the verdict of conviction dated 06.09.2024 and the consequent thereto order of sentence dated 07.09.2024, upon case bearing No. NACT/91/2019, convicted the petitioner for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'N.I. Act'), and, sentenced him to undergo simple imprisonment for two years and to pay double of the cheque amount i.e. ₹ 4,60,000/-.

3. The verdict of conviction and order of sentence (supra) caused



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pain to the petitioner and triggered him to institute thereagainst a statutory appeal before the learned appellate court concerned, which is pending consideration. However, the learned appellate court concerned has, through the impugned order dated 04.10.2024 (Annexure P-1), although ordered release of the petitioner on bail and suspended his sentence on furnishing bail bonds in the sum of Rs.50,000/- with one surety in the like amount, however, the said concession has been extended subject to him depositing 20% of the compensation amount in the Court concerned, within a month therefrom. Feeling aggrieved by this impugned order, the petitioner has now approached this Court, through the instant petition.

4. The learned counsel for the petitioner, in his assailing the impugned order dated 04.10.2024 (Annexure P-1), submits that the case of the petitioner falls in “exceptional category”, inasmuch as, he does not have any means to make payment of even 20% of the awarded compensation amount.

5. To buttress his submission, the learned counsel for the petitioner has placed reliance upon the judgment rendered by the Hon’ble Supreme Court in **“Jamboo Bhandari V/s M.P. State Industrial Development Corporation Ltd. & Ors.”, 2023(3) Law Herald (SC) 2433.**

6. On a specific query being posed by this Court, vis-a-vis, *“whether the petitioner has, or, has not, made an application before the learned appellate court concerned till date, thereby bringing the aforesaid facts on record”*, the learned counsel for the petitioner returned an answer in negative.

7. In such circumstances, this Court, at this stage, refrains from



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making any interference in the matter and deems it appropriate to relegate the petitioner to the learned appellate court concerned, by making an appropriate motion. In case, the petitioner falls within “exceptional category”, as per the law laid down by the Hon’ble Supreme Court in this regard, thereupon the learned appellate court concerned shall make a decision on the application, if any preferred by the petitioner, as per law.

8. Disposed of accordingly.

November 04, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No