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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4353/2024**

HEENA BHASIN

..... Petitioner

Through: Mr. Keshav Sehgal, Mr. Mayank Maini, Mr. Biman Sethi, Mr. Shivam Gaur, Mr. Kshitij Joshi and Mr. Aryan Kumar, Advocates.

versus

THE STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Nawal Kishore Jha, APP for State.
Dr. Ajay Chaudhary, Mr. Manoj Kumar Bhagat and Mr. Ajai Kumar, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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27.05.2024

CRL.M.A. 16534/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

CRL.M.C. 4353/2024 & CRL. M.A. 16535/2024

1. By way of the present petition filed under Section 482, the petitioner seeks setting aside of the order dated 16.04.2024, 06.05.2024 and 20.05.2024 passed by the learned ASJ-03, North-West District, Rohini Court, New Delhi in Criminal Appeal No. 169/2023.
2. Vide the aforesaid orders, proceedings under Section 82 Cr.P.C. have been initiated against the petitioner as she has failed to deposit the 20% of the compensation amount in terms of Section 148A NI Act, as directed by



the appellate court vide order dated 22.08.2023.

3. Learned counsel for the petitioner contends that the order dated 22.08.2023 has been passed in the teeth of judgment passed by the Supreme Court in Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. & Ors. reported as **(2023) 10 SCC 446** as the same is cryptic and shows non-application of mind. He further submits de hors that, the petitioner has deposited a demand draft equivalent to the sum of 20% of the compensation amount and has no objection if the same is encashed and handed over to the complainant. He further contends that the petitioner has a good case on merits.

4. Learned counsel, on instructions, further states that the petitioner undertakes to appear physically before the concerned court on 13.07.2024, the next date fixed before the trial court. He further states that an affidavit in this regard shall also be placed on record.

5. Learned counsel for the complainant/respondent No.2 submits that not only the petitioner but even the surety is not traceable.

6. At this stage, learned counsel for the petitioner submits that the petitioner undertakes to furnish her fresh address, her mobile number, and further furnish a fresh surety on the next date of hearing before the concerned court. The undertaking made on behalf of the petitioner is accepted and taken on record.

7. The Supreme Court in Jamboo Bhandari (Supra) has observed as under:-

“6. What is held by this Court is that a purposive interpretation should be made of Section 148 NI Act. Hence, normally, the appellate court will be justified in imposing the condition of deposit as provided in Section 148. However, in a case where the



appellate court is satisfied that the condition of deposit of 20% will be unjust or imposing such a condition will amount to deprivation of the right of appeal of the appellant, exception can be made for the reasons specifically recorded.

7. Therefore, when the appellate court considers the prayer under Section 389 CrPC of an accused who has been convicted for offence under Section 138 NI Act, it is always open for the appellate court to consider whether it is an exceptional case which warrants grant of suspension of sentence without imposing the condition of deposit of 20% of the fine/compensation amount. As stated earlier, if the appellate court comes to the conclusion that it is an exceptional case, the reasons for coming to the said conclusion must be recorded.”

8. Considering that the petitioner has no objection to the release of the 20% of the compensation amount that stands deposited, no further orders are required to be passed. Further, subject to the petitioner filing the affidavit and appearing before the trial court, furnishing fresh surety, proceedings initiated under Section 82 Cr.P.C. against the petitioner are set aside. As a necessary sequitur, the orders dated 16.04.2024, 06.05.2024 and 20.05.2024 are also set aside.

9. The petition is disposed of in above terms.

MANOJ KUMAR OHRI, J

MAY 27, 2024/ssc