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

CRM-A-164-2025 (O&M)

Date of decision: 01.12.2025

Suresh Pal

..... Applicant

versus

Ram Chander @ Babli

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vivek Aggarwal, Advocate and
Mr. Kewal Krishan, Advocate
for the applicant.

Rajesh Bhardwaj, J. (Oral)

1. The applicant has filed the present application under Section 378(4) Cr.P.C. for grant of leave to file an appeal against the impugned order dated 12.11.2024 passed by the learned Judicial Magistrate Ist Class, Shahabad, whereby the trial Court has acquitted the respondent-accused in a complaint filed under Sections 420, 467, 468, 471-B of IPC (for short 'the Act').

2. Hon'ble Supreme Court in **M/s. Celestium Financial vs. A. Gnanasekaran Etc., 2025(3) RCR (Criminal) 208**, after considerable discussion and comparative interpretation of Sections 372 and 378(4) of Cr.P.C., concluded that the victim has a right to file an appeal under



Section 372 of Cr.P.C. before the Court of Sessions. Relevant para of the said judgment is as under:-

“7.12 The reasons for the above distinction are not far to see and can be elaborated as follows:

Firstly, the victim of a crime must have an absolute right to prefer an appeal which cannot be circumscribed by any condition precedent. In the instant case, a victim under Section 138 of the Act, i.e., a payee or the holder of a cheque is a person who has suffered the impact of the offence committed by a person who is charged of the offence, namely, the accused, whose cheque has been dishonoured.

Secondly, the right of a victim of a crime must be placed on par with the right of an accused who has suffered a conviction, who, as a matter of right can prefer an appeal under Section 374 of the Cr.P.C.. A person convicted of a crime has the right to prefer an appeal under Section 374 as a matter of right and not being subjected to any conditions. Similarly, a victim of a crime, whatever be the nature of the crime, unconditionally must have a right to prefer an appeal.

Thirdly, it is for this reason that the Parliament thought it fit to insert the proviso to sub-section 372 without mandating any condition precedent to be fulfilled by the victim of an offence, which expression also includes the legal representatives of a deceased victim who can prefer an appeal.

On the contrary, as against an order of acquittal, the State, through the Public Prosecutor can prefer an appeal even if the complainant does not prefer such an appeal, though of course such an appeal is with the leave of the court. However, it is not always



necessary for the State or a complainant to prefer an appeal. But when it comes to a victim's right to prefer an appeal, the insistence on seeking special leave to appeal from the High Court under Section 378(4) of the Cr.P.C. would be contrary to what has been intended by the Parliament by insertion of the proviso to Section 372 of the Cr.P.C. Fourthly, the Parliament has not amended Section 378 to circumscribe the victim's right to prefer an appeal just as it has with regard to a complainant or the State filing an appeal. On the other hand, the Parliament has inserted the proviso to Section 372 so as to envisage a superior right for the victim of an offence to prefer an appeal on the grounds mentioned therein as compared to a complainant.

Fifthly, the involvement of the State in respect of an offence under Section 138 of the Act is conspicuous by its absence. This is because the complaint filed under that provision is in the nature of a private complaint as per Section 200 of the Cr.P.C. and Section 143 of the Act by an express intention incorporates the provisions of the Cr.P.C. in the matter of trial of such a deemed offence tried as a criminal offence. Therefore, the complainant, who is the victim of a dishonour of cheque must be construed to be victim in terms of the proviso to Section 372 read with the definition of victim under Section 2(wa) of the Cr.P.C.”

3. Further, applying the doctrine of prospective overruling, Hon’ble Supreme Court in **Directorate of Revenue Intelligence vs. Raj Kumar Arora in Criminal Appeal No. 1319 Of 2013 with Criminal**



Appeal No. 272 of 2014 decided on 17.04.2025, while clarifying that judgments shall be applicable retrospectively, has held as under:-

“91. The declaration of a statute dealing with substantive rights, by the legislature, is considered to be prospective unless it is expressly or by necessary implication made to have retrospective operation. The legal maxim "Nova Constitutio Futuris Forman Imponere Debet, Non Praeteritis" indicating that a new law ought to regulate what is to follow and not the past, carries with it a presumption of prospectivity and this presumption is generally said to operate unless the contrary is shown by an express provision in the statute or if the retrospectivity is otherwise discernible through necessary implication. This is because such statutes would have the consequence of affecting vested rights, impose new burdens or impair existing obligations. However, when a decision rendering an opinion as regards the interpretation of a penal provision is subsequently overruled by the decision of a larger bench, the consequence of the overruling is starkly different and by default, retrospective. **This is because it is settled law that the law declared by this Court is retrospective and is normally assumed to be the law from the inception.**

92. The operation of a newly enacted statute or rule must not be confused with the effect of a judgment. **A judgment or decision which interprets a statute or provision thereof declares the meaning of the statute as it should be construed from the date of its enactment. In other words, the judgment declares what the legislature had said at the time when the law was promulgated and therefore, it has retrospective effect.** On the contrary, it is the statute or the rule which is presumed to be prospective unless expressly made retrospective. What follows from the



same, is that a decision or judgment enunciating a principle of law is applicable to all cases irrespective of the stage of pendency before different forums since what has been enunciated is the meaning of the law which existed from the inception of the concerned statute or provision. What has been declared to be the law of the land must be held to have always been the law of the land. This conclusion also stems from the rationale that the duty of the court is not to "pronounce a new law but to maintain and expound the old one". (emphasis added)

- 4. Therefore, in view of the judgments rendered by the Hon’ble Supreme Court in **Celestium Financial** (supra) and **Directorate of Revenue Intelligence** (supra), learned Sessions Judge, concerned, is directed to treat the present leave to appeal as an appeal filed under Section 372 of Cr.P.C. and entrust the same to the appropriate Court for its disposal on merits.
- 5. Registry is directed to send the complete paperbook and the record of the case to learned Sessions Judge, concerned, forthwith.
- 6. Disposed of, accordingly. Pending applications, if any, also stand disposed of.

01.12.2025			(RAJESH BHARDWAJ)
<i>rittu</i>	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No
			JUDGE



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

CRM-M No.18436 of 2025

Date of Decision: 01.12.2025

Raghubir Singh Puri**.....Petitioner****versus****U.T., Chandigarh****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********

Present :- Mr. P. S. Ahluwalia, Senior Advocate with
Mr. Keerat Dhillon, Advocate and
Mr. Parvez Chaudhary, Advocate
for the petitioner.

Mr. Manish Bansal, PP, UT, Chandigarh.

Mr. Ketan Chopra, Advocate
for the complainant.

**********RAJESH BHARDWAJ, J. (Oral)**

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.71, dated 06.09.2021, under Sections 302, 328, 120-B of IPC, registered at Police Station Sector 49, Chandigarh.

2. Succinctly the facts of the case are that FIR in the present case was got registered on the statement of complainant, namely, Navneet Dhillon, w/o late Sh. Brijesh Negi. It was alleged that she was residing in H. No.2876, Sector 40-C, Chandigarh and working as Professor in Fine Arts College, Sector 10, Chandigarh and his husband was in the profession



of property sale purchase in association with Mr. Raghuvir Puri (petitioner) and Mr. Sardana. It was alleged that on 04.07.2020, at about 10:00 P.M., Mr Raghubir Puri (petitioner) called me and informed that her husband, Brijesh Negi was not feeling well and suffering from stomach pain and they are in Fortis Hospital, Mohali, Punjab and further he asked her to come there. It was alleged that within 10-15 minutes, the complainant reached the Hospital. His husband was in Emergency and he was having severe pain in his lower abdomen. It was alleged that husband of the complainant asked her that he was with Raghubir Puri (petitioner), Sardana and Goldy and having drinks in Sector 63, Chandigarh and suddenly, he felt easiness and the pain started. It was alleged that the doctor told the complainant regarding the stone history of her husband, thereafter, the doctor informed the complainant that he had given 02 injections to her husband and taking him for an ultrasound, meanwhile, Raghubir Puri (petitioner) met the complainant and told her that Dr. Rishi Sood was his relative. When the complainant rushed to the ultrasound room, she saw 02 attendants rushing her husband towards emergency room and her husband was unconscious. It was alleged that when she tried to enter the emergency room, she was stopped by the guards. Thereafter Dr. Rishi Sood came out of emergency room and told the complainant that her husband had a sudden major heart attack and they are treating him for the same. After 10-15 minutes, the doctor again came out of the room and told the complainant that her husband has died. Viscera sample taken were sent to CFSL, Sector 36, Chandigarh and as per the report, Phosphide was detected. Thus the request was made to take legal action against the accused and thus, the FIR



was registered. On registration of the FIR, the investigation commenced. During the investigation, the petitioner was arrested on 21.11.2024. The petitioner approached the Court of learned Additional Sessions Judge, Chandigarh praying for the grant of bail, however after hearing both the sides and finding no merit in the same, the learned Additional Sessions Judge, Chandigarh declined the bail application filed by the petitioner vide order dated 28.03.2025. Hence being aggrieved, the petitioner is before this Court by way of filing the present petition praying for the grant of regular bail.

3. Learned Senior counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present FIR. He has submitted that the petitioner along with the other co-accused, namely, Rajiv Sardana was taken to Gandhi Nagar for conducting his polygraph test. He has submitted that after the polygraph test, both the petitioner and Rajiv Sardana were found to be innocent. He has drawn the attention of this Court to the polygraph test reports. He has further submitted that co-accused, namely, Kanwarjit Singh Sandhu @ Goldy and Rajeev Sardana have also been granted bail by this Court vide orders dated 30.01.2025 and 01.08.2025, respectively passed in CRM-M-39608-2024 and CRM-M-39732-2025, not only on the medical ground but on merits as well. He has further submitted that the case of petitioner, it at par with that of the co-accused, who have already been granted bail by this Court. He has thus submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

4. Learned counsel for the complainant however has opposed

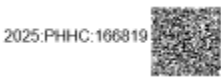


the submissions made by learned counsel for the petitioner. He has submitted that case of the petitioner is distinguishable from that of the co-accused, who are on bail, as it was a property dispute and the petitioner has a specific motive.

5. *Per contra*, learned counsel for the State has vehemently opposed the submissions made by learned counsel for the petitioner. He has drawn the attention of this Court to the status report filed. He has submitted that it is the petitioner, who had a strong motive, however he does not dispute the fact that the polygraph test of Kanwarjit Singh Sandhu @ Goldy and Rajeev Sardana was also conducted and they have already been granted bail by this Court vide orders dated 30.01.2025 and 01.08.2025 and the case of petitioner is at par with that of the co-accused. He, on instructions has submitted that the charges have been framed. He has produced custody certificate of the petitioner today in the Court which is taken on record.

5. The Court has heard learned counsel for the parties and perused the record with their able assistance.

6. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner is behind bars since the date of his arrest, i.e. 21.11.2024. Both the petitioner and co-accused, namely, Rajiv Sardana were found to be innocent after the polygraph test. Polygraph test is not a conclusive evidence. Co-accused, namely, Kanwarjit Singh Sandhu @ Goldy and Rajeev Sardana have already been granted bail by this Court vide orders dated 30.01.2025 and 01.08.2025 passed in CRM-M-39608-2024 and CRM-M-39732-2025 not only on the



ground of medical but on merits also. Custody certificate produced would show that the petitioner has suffered incarceration of 01 year and 10 days as on 30.11.2025. It further reflects that the petitioner is not involved in any other case. As submitted by learned State counsel, charges have been framed.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.

8. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of bail.

9. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

01.12.2025

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(RAJESH BHARDWAJ)
JUDGE