



127

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

CRM-M-1625-2025

Date of decision: 22.01.2025

Jasbir Singh

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. S.S. Sahu, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for setting aside the order dated 22.08.2023 (Annexure P-3) passed by the learned Additional Sessions Judge, Hisar in CRA-225-2019 titled as '*Jasbir Singh Vs. Adarsh Milk Product etc.*' vide which the petitioner is directed to deposit 20% of the amount of compensation awarded by the learned trial Court.

Brief facts of the case are that a complaint was filed by the complainant/respondent No.2 against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') on the ground of dishonouring of cheques bearing No.006417 dated 09.09.2016; 006418 dated 09.09.2016; 006419 dated 12.09.2016; 006420 dated 12.09.2016 and 006421 dated 13.09.2016 total amounting to Rs.5 lakh issued in favour of the complainant/respondent No.2 by the petitioner in discharge of his liability. Vide judgment of conviction and order of sentence dated 19.03.2019, the petitioner was convicted and sentenced to undergo simple imprisonment for a



CRM-M-1625-2025

-2-

period of six months and was further directed to pay compensation to the tune of Rs.5 lakh i.e. the amount of cheque. Thereafter, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Hisar. The learned Appellate Court vide order dated 22.04.2019, suspended the sentence of the petitioner. Thereafter, the case was adjourned for 22.08.2023. On 22.08.2023, the Appellate Court directed the petitioner to deposit 20% of the compensation amount on the next date i.e. 14.09.2023. On 14.09.2023, the petitioner moved an application for exemption from his appearance as he was suffering from typhoid and since, the application was not supported by any affidavit, the learned Appellate Court observed that the petitioner is habitual of moving application for exemption from personal appearance and is intentionally delaying the proceedings and dismissed the same and secured his presence by issuing warrant of arrest for 25.10.2023. Thereafter, the petitioner surrendered before the Appellate Court on 21.11.2024 and also moved application for bail which was dismissed.

Learned counsel for the petitioner *inter alia* contends that the learned lower Appellate Court failed to appreciate the facts in the right perspective and imposed the condition to deposit 20% of the compensation and such a condition is illegal, arbitrary and in violation of the law as laid down by the Hon'ble Supreme Court in Criminal Appeal Nos.2741 of 2023 (@ SLP(Crl.) Nos. 4927 of 2023 ***Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others***, decided on 04.09.2023. Speaking through Justice Abhay S. Oka, it has been held as follows:-

“6. What is held by this Court is that a purposive interpretation should be made of Section 148 of the N.I. Act. Hence, normally, 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 Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an accused who has been convicted for offence under Section 138 of the N.I. 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 4 conclusion must be recorded.”

|

Having heard learned counsel for the petitioner and after perusing the judgment passed in ***Jamboo Bhandari (supra)***, the lower Appellate Court was required to consider whether the present case falls in the exception or not. The impugned order 22.08.2023 (Annexure P-3) whereby, the petitioner was directed to deposit 20% of the compensation amount awarded, is hereby set aside. The learned lower Appellate Court is directed to re-examine the case after granting an opportunity to the petitioners to make submissions regarding the exceptional circumstances and decide whether it is an appropriate case that warrants waiver of the requirement of deposit of 20% of the compensation awarded by learned trial Court.

The matter is remanded back to the learned lower Appellate Court with a direction to decide the matter afresh in accordance with law in the light of judgment passed by the Hon'ble Supreme Court in ***Jamboo Bhandari's case (supra)***.

In the meantime, sentence of the petitioner shall remain suspended.

The petition is disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

22.01.2025
Neha

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