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

**CRM-M No.5084 of 2025
Date of decision : 29.01.2025**

Joginder Singh**.....Petitioner**

Versus

Paramjeet Singh**..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Ishan Khetarpal, Advocate for
Mr. Paras Jhamb, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing/setting aside of condition imposed by the learned Additional Sessions Judge, Fazilka, Punjab in criminal appeal No.CRA-179-2024, titled as 'Joginder Singh vs. Pramajit Singh' vide impugned order dated 12.04.2024 (Annexure P-1) in which learned Court imposed condition of depositing 20% of the amount of compensation as awarded by the trial Court in NACT-124-2019 titled as "Paramjeet Singh vs. Joginder Singh" within 60 days and in case 20% not deposited in stipulated period, the bail granted by the Appellate Court stands cancelled.

2. Learned counsel for the petitioner has submitted that the petitioner was prosecuted in a complaint under Section 138 of the Act. He has further submitted that the petitioner was convicted by the learned Judicial Magistrate Ist Class, Jalalabad vide judgment dated 13.03.2024



and sentenced to undergo rigorous imprisonment for 02 years and was ordered to pay compensation of Rs.2,50,000/- with interest @ 9% per annum from the date of cheque till realization of full and final payment to the complainant. It is further submitted that the petitioner assailed the order dated 13.03.2024 by filing an appeal before the Court of learned Additional Sessions Judge, Fazilka which is admitted for hearing on merits. Though the application for suspension of sentence of the petitioner was allowed, however, the learned Appellate Court vide impugned order dated 12.04.2024, ordered the petitioner to pay 20% of the compensation amount under Section 148 of the Negotiable Instruments Act. However, due to financial constraints, the petitioner failed to comply with the order dated 12.04.2024 and thereafter he moved an application seeking exemption, however the said application was allowed vide order dated 11.07.2024 and the case was adjourned to 24.10.2024 for awaiting the report regarding deposit of 20% of compensation amount. Thereafter the petitioner time and again moved the applications for exemption on 24.10.2024 and 05.12.2024 and thus the same were allowed and further the case was adjourned to 09.01.2025. He has further submitted that the petitioner is unable to collect the requisite amount and not in a situation to deposit such an huge amount and thus the direction issued to deposit 20% of the amount is unsustainable in the eyes of law as per the provisions of Section 148 of NI Act. It is further submitted that the impugned order passed by the learned Appellate Court is in violation of the law settled by Hon'ble Supreme Court in 'Jamboo Bhandari vs M.P.State Industrial Development Corporation Ltd. and others, 2024(1) SCC (Cri) 90', wherein it has been held that 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 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, which is missing in the present case. It is submitted that learned trial Court has not appreciated the case and circumstances of the petitioner as per mandate of Hon'ble Supreme Court in *Jamboo Bhandari's* case (supra).

3. Heard.

4. After hearing learned counsel for the petitioner and perusing the record, it is apparent that the learned Appellate Court suspended the sentence of the petitioner and ordered to deposit 20% of the compensation amount vide order dated 12.04.2024. However, due to financial constraints, the petitioner failed to comply with the order dated 12.04.2024 and thereafter he moved an application seeking exemption, however the said application was allowed vide order dated 11.07.2024 and the case was adjourned to 24.10.2024 for awaiting the report regarding deposit of 20% of compensation amount. Thereafter the petitioner time and again moved the applications for exemption on 24.10.2024 and 05.12.2024 and thus the same were allowed and further the case was adjourned to 09.01.2025, however, the petitioner did not comply with the same.

5. In view of the aforesaid facts, and the judicial precedent settled by Hon'ble Apex Court in *Jamboo Bhandari's* case (supra),



without commenting anything on the merits of the case, the present petition is disposed of. Petitioner is relegated to approach the learned Appellate Court concerned and file an appropriate application before it, which would be decided, by taking into consideration the law laid down by the Hon’ble Apex Court in Jamboo Bhandari’s case (supra) in this regard within one month from the date of filing of the application. The direction given in the order dated 12.04.2024 by the learned Appellate Court to the extent of depositing 20% of the compensation, is set aside and the petitioner shall continue to be on bail as per the order dated 12.04.2024 of the learned Appellate Court till the above-said application is disposed of by it. In case of non compliance of above direction, the petitioner would not be entitled to any relief.

6. Present petition stands disposed of.

(RAJESH BHARDWAJ)
JUDGE

29.01.2025
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No