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

CRM-M-6665-2025

Date of decision: 05.02.2025

Salinder

....Petitioner

Versus

Sanjay Kaushik

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arun Chander Sharma, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

The present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for setting aside the order dated 18.12.2024 (Annexure P-6) passed by the learned Additional Sessions Judge, Karnal in an application under Section 143-A of N.I. Act, 1881 filed by the complainant/respondent in CRA-144-2024 dated 30.04.2024 arising from conviction judgment dated 10.04.2024 (Annexure P-1) vide which the application filed by the complainant/respondent has been allowed and 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 respondent against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') on the basis of disputed cheque amounting to Rs.5 lakhs. It is further alleged that the blank signed cheque in question was a security cheque which was given to the complainant/respondent as security purpose for giving to another person, namely, Lalit Sharma, who is



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relative of the complainant/respondent. The petitioner was engaged in the business with Lalit Sharma and the petitioner has already cleared all the dues of Lalit Sharma. The petitioner has also paid Rs.1,75,000/- to the complainant/respondent through RTGS for giving the same to Lalit Sharma. Further, the learned trial Court without appreciating the facts and evidence on record, vide judgment and order of sentence dated 10.04.2024, convicted and sentenced the petitioner to undergo simple imprisonment for a period of three months and was further directed to pay compensation to the tune of Rs.8,00,000/- to the complainant/respondent, within one month from the date of order. Thereafter, the petitioner filed an application on the same day before the learned Judicial Magistrate 1st Class, Karnal, for suspension of his sentence which was allowed and the petitioner was admitted to bail on his personal bonds for enabling him to file an appeal against the judgment of conviction and order of sentence dated 10.04.2024. Thereafter, the petitioner has preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Karnal. The learned Appellate Court vide order dated 18.12.2024, directed the petitioner to deposit 20% of the compensation amount on 06.02.2025.

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 18.12.2024 (Annexure P-6) whereby, the condition of depositing 20% of the compensation amount awarded has been imposed, is hereby set aside. The learned lower Appellate Court is directed to re-examine the case after granting an opportunity to the petitioner 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.

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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)*.

The petition is disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

05.02.2025*Neha*

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