

**CRR-401-2025 (O&M)****-1-****110****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-401-2025 (O&M)****Date of Decision: February 15, 2025**

Jagjit Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJPresent: Mr.Manpreet Singh, Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)**CRM-6343-2025**

For the reasons mentioned in the application, the same is allowed. Delay of 132 days in filing the appeal is condoned.

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Present revision petition has been filed against the order dated 08.08.2024 passed by Additional Sessions Judge, Fazilka, vide which he was directed to deposit 20% of the compensation amount as awarded by the trial Court in favour of the petitioner within 60 days from the date of passing of the order by the trial Court.

Learned counsel for the petitioner has submitted that the petitioner was convicted by learned Chief Judicial Magistrate Fazilka, under Section 138 of the Negotiable Instrument Act, 1881 (for brevity, 'the NI Act') read with Section 142 of the NI Act, vide judgment, dated 08.07.2024, for a sentence of one year simple imprisonment and was ordered to pay fine

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of Rs.2,00,000/-. It is further submitted that the petitioner has assailed the order dated, 08.07.2024, by filing an appeal alongwith an application for suspension of sentence before the Court of Sessions at Fazilka. However, sentence of petitioner was suspended by the appellate Court, vide impugned order, dated 08.08.2024, subject to the condition to pay 20 per cent of the compensation amount within 60 days from passing of the order by the trial Court. He has submitted that the petitioner has not been provided any opportunity of hearing to submit his defence before the order was passed and hence the same is unsustainable in the eyes of law. It is further submitted that moreover the impugned order has been passed by the learned Appellate Court 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.

Heard.

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 maintainability and merits of the case, the

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present petition is disposed of. Petitioner is relegated to approach the learned Appellate Court concerned and file an application, 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 today. The directions given in the order dated 08.08.2024 by learned Appellate Court to the extent of depositing of 20% of compensation amount within 60 days from passing of the order by the trial Court, and in case he fails to comply with the same, the bail granted to the accused shall be deemed to have been cancelled, is set aside. The petitioner will remain on bail as granted by the appellate Court till the application is decided by the appellate Court in view of the directions as given above.

Disposed of accordingly.

February 15, 2025

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- 1. Whether speaking/reasoned ?**
- 2. Whether reportable ?**

**(RAJESH BHARDWAJ)
JUDGE****Yes/No
Yes/No**