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

CRM-M-21817-2025

Date of decision :25.04.2025

Dev Enterprises and another

.....Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Aakash Juneja, Advocate
for the petitioners.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of the impugned order dated 18.01.2024 (Annexure P-4), passed in CRA/15/2024 dated 18.01.2024, whereby the petitioner has been directed to deposit 20% of compensation amount as per Section 148 of NI Act, within 60 days without adhering to proper procedure and giving opportunity of hearing to the petitioner, even though, an application under Section 148 of NI Act for exemption to pay such amount was also filed, which has not been declared so far.

2. Learned counsel for the petitioner has stated that petitioner was prosecuted in a complaint under Section 138 of the Act and he was convicted by learned Judicial Magistrate Ist Class, Karnal under Section 138 of the Negotiable Instrument Act, 1881, vide judgment dated 19.12.2023 and sentenced to undergo rigorous imprisonment for two months and was ordered to pay compensation of Rs.5,00,000/-. It is further submitted that against the order dated 19.12.2023, the petitioner



filed an appeal before the Court of learned Additional Sessions Judge at Karnal and learned Appellate Court vide its impugned order dated 18.01.2024 (Annexure P-4) suspended the sentence of petitioner and he was directed to deposit 20% of the compensation amount with aid of Section 148 of the NI Act. However, due to financial constraints, the petitioner failed to comply with the order dated 18.01.2024. Thus, the learned Appellate Court has not afforded any opportunity to the petitioner to put forward his case and as such the Appellate Court has failed to follow the mandate of Hon'ble Supreme Court given in **Jamboo Bhandari vs M.P.State Industrial Development Corporation Ltd. and others, 2024(1) SCC (Cri) 90**. He prays that the petitioner be granted one opportunity to present his case before the Appellate Court and then pass fresh order after considering his contentions as well as the mandate of Hon'ble Supreme Court. He has further stated that in the ***Jamboo Bhandari's*** case (supra), 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.

3. Notice of motion.

4. On the asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana, accepts notice on behalf of the respondent-State.



5. Heard.
6. After hearing counsel for the petitioner and perusing the record, it is apparent that the petitioner was given 60 days time to deposit 20% of the compensation amount awarded by the trial Court and the order has been passed without affording any opportunity to the petitioner to explain his position and as such, the same is against the mandate of Hon'ble Supreme Court in **Jamboo Bhandari's case (supra)**.
7. 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 18.01.2024 by learned Appellate Court to the extent of depositing 20% of compensation, is set aside and the petitioner shall continue to be on bail as per order dated 18.01.2024 of learned Appellate Court till the above-said application is disposed of by it.

25.04.2025

ps-I

(RAJESH BHARDWAJ)
JUDGE

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