



CRM-M-28534-2025

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153 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28534-2025

Date of decision : 22.05.2025

M/s Indora Mobile Communication and another

.....Petitioners

Versus

Sudarshan Kumar

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ritvik Garg, Advocate
for the petitioners.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of impugned order dated 15.04.2024 (Annexure P-1), passed by Ld. Additional Sessions Judge, Chandigarh, whereby the petitioner was directed to pay 20% of the compensation amount with aid of Section 148 of Negotiable Instrument Act, in case arising out of CRA-107-2024 titled as '**M/s Indora Mobile Communication & another Vs. Sudarshan Kumar**' (arising out of COMP No.16754 of 2019 before Ld. JMIC, Chandigarh) pending for 22.05.2025 before the Ld. Additional Sessions Judge, Chandigarh and further quashing of impugned order dated 07.08.2024 (Annexure P-2) whereby the bail granted to the petitioner ceases to have effect on account of non-deposit of the 20% of compensation amount. Further prayer has been made for staying the operation of impugned orders dated 15.04.2024 and 07.08.2024 and further no coercive action may be taken against the petitioner in pursuant to order dated 07.08.2024.

2. Learned counsel for the petitioner has stated that petitioner was prosecuted in a complaint under Section 138 of the Negotiable Instruments Act and he was convicted by learned Judicial Magistrate Ist



Class, Chandigarh, under Section 138 of the Negotiable Instrument Act, 1881, vide judgment dated 09.01.2024 and sentenced to undergo rigorous imprisonment for 05 months and was ordered to pay the amount of the cheque in question as compensation. It is further submitted that against the order dated 09.01.2024, the petitioner filed an appeal before the Court of learned Additional Sessions Judge at Chandigarh and learned Appellate Court vide its impugned order dated 15.04.2024 (Annexure P-1) 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 15.04.2024. It is submitted that due to non-payment of pre-deposit of 20% of the compensation amount, bail granted to the petitioner was cancelled vide order dated 07.08.2024. 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. Heard.

4. 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)**.

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 orders dated 15.04.2024 and 07.08.2024, are hereby *set aside* and the petitioner shall continue to be on bail as per order dated 15.04.2024 of learned Appellate Court till the above-said application is disposed of by it.

22.05.2025

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(RAJESH BHARDWAJ)
JUDGE

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