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

**CRM-M No.2128 of 2025
Date of decision : 16.01.2025**

Vinay Verma and another

.....Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Dhruv Gupta, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of impugned order dated 13.11.2024 (Annexure P-3) passed by the learned Appellate Court of Additional Sessions Judge, District Panchkula in criminal Appeal No.CRA-209-2024 dated 13.11.2024 titled as 'Vinay Verma and another vs. State of Haryana and others' (Annexure P-2) filed against the judgment and order of sentence dated 15.10.2024 (Annexure P-1) whereby the petitioner has been convicted in Criminal complaint dated 29.05.2019 bearing case No. NACT-638-2019 titled as 'Gamp Technologies Pvt. Ltd. and another vs. M/s Cemex Pharma and others' under Section 138 of Negotiable Instruments Act, 1881 to the extent whereby the petitioner has been directed to deposit 20% of the total compensation amount under Section 148 of the Negotiable Instruments Act, 1881 which is a non speaking order and has been passed illegally and arbitrarily without proper application of mind in a mechanical manner.



Further prayer has been made for staying the impugned order dated 13.11.2024 (Annexure P-3) during the pendency of the present petition.

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, Panchkula vide judgment dated 15.10.2024 and sentenced to undergo rigorous imprisonment for 02 years and was ordered to pay double of the cheque amount i.e. Rs.40,00,000/- as compensation. It is further submitted that the petitioner assailed the order dated 15.10.2024 by filing an appeal before the Court of learned Additional Sessions Judge, Panchkula which is pending adjudication. Though the application for suspension of sentence of the petitioner was allowed, however, the learned Appellate Court vide impugned order dated 13.11.2024, ordered the petitioner to pay 20% of the total compensation amount under Section 148 of the Negotiable Instruments Act, failing which his bail was ordered to be cancelled. He has submitted that the petitioner was facing a Heart Bypass Surgery and he is not in a position to pay hefty amount of 20% of compensation amount as the petitioner is still undergoing treatment for the same and is under constant care and medication and hence the direction issued to deposit 20% of the cheque 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 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. 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 13.11.2024, 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 13.11.2024 by the learned Appellate

Court to the extent of depositing 20% of the compensation amount, is hereby set aside and the petitioner shall continue to be on bail as per the order dated 13.11.2024 of the learned Appellate Court till the above-said application is disposed of by it.

6. Present petition stands disposed of.

16.01.2025
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(RAJESH BHARDWAJ)
JUDGE

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