



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

121 CRM-M-3861-2025(O&M)

M/s Devgan Rice and General Mills
..... Petitioner

Vs.

M/s Jasbir Bhullar Trading Company and anr
..... Respondents

124 CRM-M-4402-2025(O&M)

Piyush Aggarwal
..... Petitioner

Vs.

Satya Parkash Singal and anr
..... Respondents

124-2 CRM-M-4405-2025(O&M)

Piyush Aggarwal
..... Petitioner

Vs.

Pritam Parkash Aggarwal and anr
..... Respondents

Date of Decision:28.01.2025

CORAM: HON’BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr.Umesh Aggarwal, Advocate
for the petitioner(in CRM-M-3861-2025).

Mr. Sarun Hans, Advocate
For the petitioner(s)
(in CRM-M-4402-2025 and CRM-M-4405-2025)



SANJAY VASHISTH, J.

1. By this common order the aforesaid three petitions are being disposed of, which have arisen out of three different orders passed by the different Courts. However, the common question for consideration before this Court, involved in all the three petitions, is that;

“Whether the order/direction of making payment of 20% of the compensation amount/cheque amount under Section 148 of the Negotiable Instruments Act, 1881 is sustainable or not in law, especially in view of the directions passed by the Hon’ble Apex Court”

Directions in all the impugned orders have been issued by the learned lower Appellate Court(s), while deciding the application(s) for suspension of sentence/bail during the pendency of the appeal(s) before it. Hence, all three petitions are decided together.

2. The aforementioned petitions have been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, ‘BNSS, 2023’), challenging orders dated 24.12.2024 (in CRM-M-3861-2025), 16.12.2024 (in CRM-M-4402-2024) and 16.12.2024(in CRM-M-4405-2024) respectively, whereby Appellate Court(s) while granting bail to the petitioners, imposed a condition for depositing 20% of the amount of compensation/cheque amount awarded by learned Trial Court in the proceedings of Section 138 of the Negotiable Instruments Act, 1881 (for short, ‘the Act of 1881’)



In **CRM-M-3861-2025**, learned Sub Divisional Judicial Magistrate, Patti in NACT/232/2016 has found the petitioner guilty of committing an offence under Section 138 of the Act of 1881 and thereupon sentenced to undergo rigorous imprisonment for a period of six month alongwith fine of Rs.5,000/-. Petitioner was further directed to pay compensation of Rs.2,00,000/- (Rupees two lacs only) to the complainant(s)(respondent(s) herein) as per Section 357(3) Cr.P.C.

The Appellate Court (Sessions Court, Tarn Taran) while granting bail to the petitioner directed him to deposit 20% of the cheque amount.

In **CRM-M-4402-2025**, learned Judicial Magistrate First Class, Hisar in NACT/1454/2020 has found the petitioner guilty of committing an offence under Section 138 of the Act of 1881 and thereupon sentenced to undergo simple imprisonment for a period of one year. Petitioner was further directed to pay compensation of Rs.22,50,000/- (Rupees twenty-two lacs and fifty thousand only) to the complainant (respondent herein) as per Section 143(1) (Proviso) of the Act 1881, read with Section 357(1)(3) Cr.P.C within a period of one month from the passing of the Judgment.

The Appellate Court (Additional Sessions Judge, Hisar), while granting bail to the petitioner directed him to pay 20% of the compensation amount and on its' deposit, balance amount shall remain stayed.

In **CRM-M-4405-2025**, learned Judicial Magistrate First Class, Hisar in NACT/1453/2020 has found the petitioner guilty of committing an offence under Section 138 of the Act of 1881 and thereupon sentenced to undergo simple imprisonment for a period of one year. Petitioner was further directed to pay



compensation of Rs.30,00,000/- (Rupees thirty lacs only) to the complainant (respondent herein) as per Section 143(1) (Proviso) of the Act 1881, read with Section 357(1)(3) Cr.P.C within a period of one month from the passing of the Judgment. The Appellate Court (Additional Sessions Judge, Hisar), while granting bail to the petitioner directed to pay 20% of the compensation amount on its' deposit, balance amount shall remain stayed.

2. In the appeals filed by the respective petitioners, while granting bail to the appellants (petitioners herein) a condition has been imposed to deposit 20% of the compensation/cheque amount as awarded by learned Trial Court. Learned counsel for the petitioner(s), argued that learned Appellate Court has not followed the law laid by Hon'ble Supreme Court, while dealing with the provisions of Section 148 of the Act of 1881.

Learned counsel for the petitioner(s) relied upon the judgment of the Hon'ble Supreme Court, ***Jamboo Bhandari Vs. Madhya Pradesh State Industrial Development Corporation Limited and others, (2023) 10 Supreme Court cases 446***, and submit that the Hon'ble Apex Court has laid down certain parameters while considering Section 148 of the Act of 1881 for the purpose of interpretation.

3. In a way, it has been held that the object of Section 148 of the Act of 1881 is not mandatory to be followed rather, it is directive and the required direction to pay or deposit 20% of the compensation/cheque amount, which is maximum in nature is to be passed after examining the facts and circumstances of the case before it. Learned counsel further contends that it is open for the Appellate Court to examine the facts and circumstances of the case and even if, exceptional



circumstances are there, the direction to deposit 20% of the compensation amount can either be waived of completely or it can be reduced to the level which appellate Court deems it appropriate. Learned counsel for the petitioner(s) also relies upon the judgment of Hon'ble Apex Court in '***Bijay Agarwal Vs. M/s Medilines***', 2024 (4) Law Herald (SC) 3560, Law Finder Doc Id #2670187', and '***Muskan Enterprises and another Vs. The State of Punjab and another***', 2024 SCC Online SC 4107, Law Finder Doc Id #2680202',

4. After examining the impugned order and the manner in which the direction to deposit 20% of the compensation amount has been issued, this Court is of the view that dispute raised through the present petition can be decided in limni and without calling the other side here, because the way this Court intends to dispose of the present petitions, no prejudice would be suffered by the complainant(s) qua their rights. First of all, provision of Section 430 of BNSS, 2023, which is substituted provision of Section 389 of Cr.P.C., is reproduced herebelow”

“430. Suspension of sentence pending appeal; release of appellant on bail. 1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail, or on his own bond or bail bond:

Provided that the Appellate Court shall, before releasing on his own bond or bail bond a convicted person who is convicted of an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years, shall give opportunity to the Public Prosecutor for showing cause in writing against such release:



Provided further that in cases where a convicted person is released on bail it shall be open to the Public Prosecutor to file an application for the cancellation of the bail.

(2) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of an appeal by a convicted person to a Court subordinate thereto.

(3) Where the convicted person satisfies the Court by which he is convicted that he intends to present an appeal, the Court shall,—

(i) where such person, being on bail, is sentenced to imprisonment for a term not exceeding three years; or

(ii) where the offence of which such person has been convicted is a bailable one,

and he is on bail, order that the convicted person be released on bail, unless there are special reasons for refusing bail, for such period as will afford sufficient time to present the appeal and obtain the orders of the Appellate Court under sub-section (1); and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended.

(4) When the appellant is ultimately sentenced to imprisonment for a term or to imprisonment for life, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

5. In the aforementioned provision of BNSS or even the earlier code i.e. Cr.P.C. while considering the plea of bail in an appeal by an Appellate Court or by the High Court, the concept of payment of compensation or non-payment of compensation, if ordered by First Court is completely missing.

6. In ***Jamboo Bhandari's case (supra)***, the view taken by the Hon'ble Apex Court in ***Surinder Singh Deswal Vs. Virender Gandhi, (2019) 11 SCC (Cri) 461'***, has been discussed, wherein, the object and reason of the amendment in Section 148 of the Act of 1881 has been discussed. Relevant paragraphs are reproduced herebelow:



“5. The paragraph `8' of the decision of this Court in the case of *Surinder Singh Deswal Alias Colonel S.S. Deswal and Others* (2019) 11 SCC 341 reads thus: -

"8. Now so far as the submission on behalf of the appellants that even considering the language used in section [148](#) of the NI Act as amended, the appellate court "may" order the appellant to deposit such sum which shall be a minimum of 20% of the fine or compensation awarded by the trial court and the word used is not "shall" and therefore the discretion is vested with the first appellate court has construed it as mandatory, which according to the learned Senior Advocate for the appellants would be contrary to the provisions of section [148](#) of the NI Act as amended is concerned, considering the amended section [148](#) of the NI Act as a whole to be read with the Statement of Objects and Reasons of the amending section [148](#) of the NI Act, the word used is "may", it is generally to be construed as a "rule" or "shall" and not to direct to deposit by the appellate court is an exception for which special reasons are to be assigned. Therefore amended section [148](#) of the NI Act confers power upon the appellate court to pass an order pending appeal to direct the appellant-accused to deposit the sum which shall not be less than 20% of the fine or compensation either on an application filed by the original complainant or even on the application filed by the appellant-accused under section [389](#) CrPC, 1973 to suspend the sentence. The aforesaid is required to be construed considering the fact that as per the amended section [148](#) of the NI Act, a minimum of 20% of the fine or compensation awarded by the trial court is directed to be deposited and that such amount is to be deposited within a period of 60 days from the date of the order, or within such further period not exceeding 30 days as may be directed by the appellate court for sufficient cause shown by the appellant. Therefore, if amended section [148](#) of the NI Act is purposively interpreted in section [148](#) of the NI Act, but also section [138](#) of the NI Act. The Negotiable Instruments Act has been amended from time to time so as to provide, inter alia, speedy disposal of cases relating to the offence of the dishonour of cheques. So as to see that due to delay tactics by the unscrupulous drawers of the dishonoured cheques due to easy filing of the appeals and obtaining stay in the proceedings, an injustice was caused to the payee of a dishonoured cheque, who has to spend considerable time and resources in the court proceedings to realise the value of the cheque and having observed that such delay has compromised the sanctity of the cheque transactions. Parliament has thought it fit to amend section [148](#) of the NI Act. Therefore, such a purposive interpretation would be in furtherance of the Objects and Reasons of the amendment in section [148](#) of the NI Act and also section [138](#) of the NI Act.



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., 1973 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 conclusion must be recorded.

8. The submission of the learned counsel appearing for the original complainant is that neither before the Sessions Court nor before the High Court, there was a plea made by the appellants that an exception may be made in these cases and the requirement of deposit or minimum 20% of the amount be dispensed with. He submits that if such a prayer was not made by the appellants, there were no reasons for the Courts to consider the said plea.

9. We disagree with the above submission. When an accused applies under section [389](#) of the Cr.P.C., 1973 for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the Court has to consider whether the case falls in exception or not.

10. In these cases, both the Sessions Courts and the High Court have proceeded on the erroneous premise that deposit of minimum 20% amount is an absolute rule which does not accommodate any exception.

11. The learned counsel appearing for the appellants, at this stage, states that the appellants have deposited 20% of the compensation amount. However, this is the matter to be examined by the High Court.

12. In these circumstances, we set aside the impugned orders of the High Court and restore the revision petitions filed by the appellants before the High Court. We direct the parties to appear before the roster Bench of the High Court on 09.10.2023 in the morning to enable the High Court to fix a date for hearing of the revision petitions. As the contesting parties are before the Court, it will not be necessary for the High Court to issue a notice of the date fixed for hearing. The High Court, after hearing the parties, will consider whether 20% of the amount is already deposited or not. If the Court comes to the conclusion that 20% of the amount is not deposited, the Court will re-examine the Revision Petitions in the light of what we have observed in this judgment. Till the disposal of the restored Revision Petitions, the interim order passed by this Court ordering suspension of sentence will continue to operate.



7. In ***Bijay Agarwal's case (supra)***, the Hon'ble Apex Court has also noticed the observation made in ***Jamboo Bhandari's case*** and thereupon, observations in paragraph Nos. 17 and 18 are reproduced herebelow:

"17. In the decision in 'Jamboo Bhandari v. Madhya Pradesh State Industrial Development Corporation Limited and Ors. (2023) 10 SCC 446' this Court held that an Appellate Court in an appeal against conviction under Section [138](#), NI Act, could not place a condition to deposit an amount invoking the power under Section [148](#)(1), NI Act, mechanically without considering whether the case falls within exceptional circumstances. In view of the said exposition of law, the Appellate Court ought to have considered the aforesaid aspects as it would certainly be an exceptional circumstance to exempt the appellant who is not the 'drawer' of the cheque concerned to deposit the amount payable under Section [148](#)(1) by an appellant who is the 'drawer' of the cheque. In the case on hand, the High Court has failed to consider these crucial aspects in the light of the dictum laid down by this Court in the decisions referred supra while considering the application for suspension of sentence for the conviction under Section [138](#) of the NI Act in the pending appeal.

18. The upshot of the discussion is that these appeals should succeed and consequently, it is allowed. The impugned common order dated 09.01.2024 passed by the High Court of Karnataka at Bengaluru in Criminal Petition Nos.13095/2023 and 13153/2023 is set aside. Accordingly, the orders dated 10.11.2023 passed by the Principal City Civil & Sessions Judge at Bangalore respectively in Criminal Appeal No. 1537/2023 and 1536/2023 stands quashed and set aside to the extent it put the condition to deposit of 20% of the fine amount payable under orders in CC Nos.13937/2023 and 13938/2013, passed by the Court of XXXVI Additional Chief Metropolitan Magistrate, Bangalore City and restore the orders dated 10.11.2023 suspending the sentence of the appellant in both the cases, with the condition(s) imposed qua execution of bond and on such execution it will remain in force till the disposal of the above mentioned appeals pending before the First Appellate Court concerned."



8. Again, in the case of '**Muskan Enterprises (supra)**' Hon'ble the Apex Court has noticed certain additional parameters, which required to be looked into in such like cases, which reads thus:

“27. We may take the discussion a little forward to emphasize our point of view. There could arise a case before the Appellate Court where such court is capable of forming an opinion, even in course of considering as to what would be the appropriate quantum of fine or compensation to be kept in deposit, that the impugned conviction and the consequent sentence recorded/imposed by the trial court is so wholly incorrect and erroneous that it is only a matter of time for the same to be set aside and that ordering a deposit would be unnecessarily burdensome for the appellant. Such firm opinion could be formed on a plain reading of the order, such as, the conviction might have been recorded and sentence imposed without adherence to the mandatory procedural requirements of the N.I. Act prior to/at the time lodging of the complaint by the complainant rendering the proceedings vitiated, or the trial court might have rejected admissible evidence from being led and/or relied on inadmissible evidence which was permitted to be led, or the trial court might have recorded an order of conviction which is its ipse dixit, without any assessment/analysis of the evidence and/or totally misappreciating the evidence on record, or the trial court might have passed an order failing to disclose application of mind and/or sufficient reasons thereby establishing the link between the appellant and the offence, alleged and found to be proved, or that the compensation awarded is so excessive and outrageous that it fails to meet the proportionality test : all that, which would evince an order to be in defiance of the applicable law and, thus, liable to be labelled as perverse. These instances, which are merely illustrative and not exhaustive, may not arise too frequently but its possibility cannot be completely ruled out. It would amount to a travesty of justice if exercise of discretion, which is permitted by the legislature and could indeed be called for in situations such as these pointed out above, or in any other appropriate situation, is not permitted to be exercised by the Appellate Court by a judicial interpretation of 'may'



being read as 'shall' in sub-section (1) of Section 148 and the aggrieved appellant is compelled to make a deposit of minimum 20% of the fine or compensation awarded by the trial court, notwithstanding any opinion that the Appellate Court might have formed at the stage of ordering deposit as regards invalidity of the conviction and sentence under challenge on any valid ground. Reading 'may' as 'may' leads to the text matching the context and, therefore, it seems to be just and proper not to denude the Appellate Court of a limited discretion conferred by the legislature and that is, exercise of the power of not ordering deposit altogether albeit in a rare, fit and appropriate case which commends to the Appellate Court as exceptional. While there can be no gainsaying that normally the discretion of the Appellate Court should lean towards requiring a deposit to be made with the quantum of such deposit depending upon the factual situation in every individual case, more so because an order under challenge does not bear the mark of invalidity on its forehead, retention of the power of such court not to order any deposit in a given case (which in its view and for the recorded reasons is exceptional) and calling for exercise of the discretion to not order deposit, has to be conceded. If indeed the legislative intent were not to leave any discretion to the Appellate Court, there is little reason as to why the legislature did not also use 'shall' instead of 'may' in sub-section (1). Since the self-same section, read as a whole, reveals that 'may' has been used twice and 'shall' thrice, it must be presumed that the legislature was well and truly aware of the words used which form the skin of the language. Reading and understanding the words used by the legislature in the literal sense does not also result in manifest absurdity and hence tinkering with the same ought to be avoided at all costs. We would, therefore, read 'may' as 'may' and 'shall' as 'shall', wherever they are used in Section 148. This is because, the words mean what they say.

28. *In such view of the matter and for the foregoing reasons, we are unhesitatingly of the view that the impugned order of the High Court declining to entertain the subsequent petition under Section 482, Cr. PC of the appellants is unsustainable in law. However, we do not consider the need to remit the matter to the High Court for consideration of the subsequent petition under Section 482, Cr. PC; instead, in our view, justice would be sufficiently served if the Sessions Court re-examines the issue of deposit being required to be made by the appellants in the light of*



the law laid down in Jamboo Bhandari (supra) and the observations made hereinabove.

29. Consequently, the impugned order of the High Court dated 18th May, 2024 and the Sessions Court's order dated 17th October, 2022, stand set aside. The matter is remitted to the Sessions Court to re-examine the issue of ordering deposit. Whether sufficient ground has been made out by the appellants to persuade the Sessions Court not to order any deposit is left entirely to its discretion and satisfaction. We do not express any opinion on the plea that the appellants have sought to advance before us, lest any party seeks to derive any advantage. All points are left open.

9. While dealing with Section 148 of the Act of 1881, in ***Jamboo Bhandari's case (supra)*** certain circumstances which may be there in a particular appeal have been anticipated and thereupon observed that:

(i) It would not be justified for Appellate Court to mandatorily impose a condition of deposit of 20% of compensation amount if it records its satisfaction that imposition of such a condition upon the appellant may deprive a genuine litigant from right of appeal. Thus, by recording it as an exceptional reason condition of deposit of 20% of compensation amount can be waived off or reduced;

(ii) Irrespective of the plea taken by the appellant/convict of considering his case of exceptional circumstances, it would be obligatory for the Appellate Court while dealing with the plea of suspension of sentence to examine if the case before it actually falls within the exceptions or not;

(iii) Deposit of minimum 20% amount under Section 148 of the Act of 1881 is thus not mandatory or an absolute rule, unless same is examined thoroughly if the case can be accommodated within the exceptions.



In *Muskaan's case (supra)* the concept of deposit of 20% of the compensation amount mandatorily, has been diluted more by observing that word 'may' is to be read as 'may' and word 'shall' is to be read as 'shall' and same is not required to be tinkered with, while reading Section 148 of the Act of 1881.

10. If the ratio of the aforementioned law laid down by Hon'ble Apex Court is applied to the impugned order(s) passed by the Appellate Court in the appeal proceedings, this Court finds that the impugned order(s) is almost non-speaking and not even dealing with any of the grounds, which ought to have been noticed and then decided accordingly.

At this stage, instead of examining the orders at length or by calling the other side and by keeping in mind the guidelines laid down by Hon'ble Apex Court in **Jamboo bhandari's case (supra)** and **Muskan Enterprises case (supra)**, this Court deems it appropriate to set aside the impugned directions issued vide orders dated 24.12.2024, 16.12.2024 and 16.12.2024 respectively, to the extent of issuing direction to pay deposit/to pay 20% compensation amount or any lesser amount, as the same has been passed without examining the circumstances in its entirety.

11. Resultantly, all the aforementioned three petitions are allowed and impugned orders dated 24.12.2024 passed by learned Sessions Judge, Tarn Taran, 16.12.2024 passed by learned Additional Sessions Judge, Hisar and 16.12.2024 passed by learned Additional Sessions Judge, Hisar respectively, passed in aforementioned three petitions are hereby quashed/set aside to the extent of



imposing of direction to deposit 20% of the compensation/cheque amount issued by the Appellate court.

It is also clarified that the order of suspension of sentence would not be disturbed in any manner and the same would be subject to the observations, which are yet to be made by the Appellate Court while dealing with provisions of Section 148 of the Act of 1881.

12. It is further directed that the question of making compliance of the directions of law i.e. Section 148 of the Act of 1881, to deposit amount upto 20% of the compensation amount, as awarded by learned Trial Court would be decided afresh in accordance with law, after affording reasonable opportunity to both the sides and by following the observations made by the Hon'ble Apex Court in **Jamboo bhandari's case (supra)** and **Muskan Enterprises case (supra)**.

13. This Court also realizes that similar orders passed under Section 148 of the Negotiable Instruments Act, 1881, are being challenged almost on daily basis in number of petitions, and in most of the cases, such orders are being passed without even noticing the mandate of law, laid down by the Hon'ble Apex Court in the cases of ***Jamboo Bhandari's case (supra)*** and ***Muskaan's case (supra)***. Therefore, to avoid multiplicity of litigation and repeated filing of cases before this Court, it is imperative to sensitize the Courts below where the appeal or applications under Section 148 of the Negotiable Instruments Act, 1881, are pending or filed, about the aforementioned mandate of law laid by the Hon'ble Apex Court through its judgments in the cases of ***Jamboo Bhandari's case (supra)*** and ***Muskaan's case (supra)***. Accordingly, the Registry is directed to circulate a



copy of this order to all the Session Divisions in the States of Punjab, Haryana and Union Territory, Chandigarh, for information and necessary compliance.

With the aforesaid observations, the present petition(s) are allowed and thus, same are disposed of.

(SANJAY VASHISTH)
JUDGE

28.01.2025
Rashmi

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |