

**HIGH COURT OF TRIPURA
AGARTALA
Crl. Rev. P. No.49 of 2025**

Sri Arjun Banik,
Age-45 years, S/o-Lt. Haripada Banik,
R/o-Nutan Bazaar, P.S.-NTB,
District-Gomati, Tripura.

----- Petitioner(s)

Versus

1. Sri Swapan Saha,
S/o-Late Chitta Ranjan Saha,
Of-Nutan Bazar, P.S.-Nutan Bazar,
Amarpur, Dist-Gomati Tripura.

2. The State of Tripura.

-----Respondent(s)

For Petitioner(s)	:	Mr. Arjun Acharjee, Adv. Ms. Moon Basu, Adv.
For Respondent(s)	:	Mr. Raju Datta, PP. Mr. Sankar Lodh, Adv.
Date of hearing and Delivery of judgment	:	20.01.2026.

HON'BLE MR. JUSTICE BISWAJIT PALIT
Judgment & Order (Oral)

20.01.2026

Heard learned counsel Mr. A Acharjee, appearing on behalf of the petitioner-convict Sri Arjun Banik and also heard Mr. S Lodh, learned counsel appearing on behalf of the respondent No.1, Sri Swapan Saha and leaned PP Mr. R Datta, appearing on behalf of the State respondent.

2. This revision petition is filed challenging the order dated 15.07.2025 passed by learned Addl. Sessions Judge, Gomati District, Udaipur in Criminal Appeal No. 04/2024. By the said order the appeal filed by the present petitioner convict was disposed of without contest. Taking part in the hearing, learned counsel for the petitioner drawn the attention of the court that by a judgment

dated 18.03.2024 passed by learned JM 1st Class, Amarapur, Gomati District in CR(NI) 06/2022 the present petitioner was convicted under Section 138 of the NI Act and was sentenced to pay fine of Rs. 4,20,000/- in default to suffer SI for one year and challenging that judgment/order the present petitioner preferred an appeal before the court of the Sessions Judge which was assigned to the court of the learned Addl. Sessions Judge, Gomati District, Udaipur. The appeal was numbered as CrI.A. 04/20024. Before the appellate court the present respondent-complainant on 19.11.2024 filed one application under Section 143A(1) of NI Act supplying copy to the other side and on the prayer of the respondent complainant the present petitioner was asked to file his objection but the appellant did not file any objection. So by order dated 28.05.2025 a direction was given by the learned Appellate court to the petitioner to deposit 20% of the fine money awarded by learned JM 1st Class, Amarapur, Gomati District before that court. But the petitioner convict failed to deposit the same on time resulting which by order dated 15.07.2025 the appeal was dismissed for non-prosecution and the petitioner was directed to surrender before the learned trial court to suffer the sentence.

3. Learned counsel further submitted that the said order dated 15.07.2025 passed by learned Addl. Sessions Judge, Gomati District suffers from infirmity as because the respondent complainant ought to have filed the petition under Section 148 of the NI Act but instead of filing the same under Section 148 of the NI Act the respondent complainant filed the petition under Section 143A of the NI Act before the court quoting wrong provisions of

law and the learned appellate court without considering the said provision passed an order under Section 143A(1) of NI Act and directed the present petitioner-convict to deposit 20% of the compensation/fine which itself shows non-application of mind and the order itself suffers from perversity and as such the same needs to be interfered with.

4. On the other hand, learned counsel Mr. S Lodh appearing on behalf of the respondent-complainant drawn the attention of the court referring different orders passed by learned Addl. Sessions Judge, Gomati District, Udaipur and submitted that since the present petitioner-convict failed to deposit 20% of the fine money, so the direction of the learned appellate court was not improper but he fairly submitted that the order ought to have been passed under Section 148(1) of the NI Act.

5. Learned counsel Mr. Lodh further submitted that as per sub-section (2) of Section 148 the period for deposit of the fine amount has already expired. So at this stage there is no scope to pass any direction for suspending the sentence. Now the petitioner is either to deposit the entire amount or suffer imprisonment as per order of the learned trial court.

Considered.

6. I have heard both the sides and perused the orders passed by learned Addl. Sessions Judge, Gomati District, Udaipur and the final order dated 15.07.2025. The appeal was dismissed without any merit on the ground that the present petitioner as appellant has failed to deposit 20% of the fine amount in pursuance of order dated 28.05.2025.

7. The present petitioner without surrendering before the learned trial court or without depositing the fine money has straightway approached this court for invoking revisional jurisdiction. Since from the order dated 15.07.2025 passed by learned Addl. Sessions Judge it appears to this court that the appeal was dismissed without any merit only on the ground that 20% of the fine amount was not deposited by the present petitioner-convict, so in the considered view of this court, for the sake of justice an opportunity be given to the present petitioner to exercise his right of appeal in accordance with law but the present petitioner convict inspite of allowing opportunity has failed to exercise his right by not depositing the fine amount as ordered by the learned appellate court, which was no doubt a gross negligence on the part of the present petitioner convict because due to non deposit of the amount the respondent has sustained financial loss. So considering the facts and circumstances of the case, it appears to this court that the present matter be remanded back again to the learned appellate court with certain directions, to enable the petitioner convict to argue his appeal in accordance with law.

8. The learned first appellate court definitely either overlooked or committed error in passing the order dated 28.05.2025 invoking the provisions of Section 143A of NI Act in place of invoking the jurisdiction of Section 148 of the NI Act.

9. In the result, the present petition filed by the petitioner convict is hereby allowed with direction that the petitioner convict shall deposit 25% of the fine amount awarded by learned JM 1st

Class by judgment dated 18.03.2024 in CR (NI) 06/2022 on or before the next date to the Learned Appellate Court and he shall also pray for fresh bail before the learned appellate court for suspension of his sentence.

10. Learned appellate court, in the event of receipt of 25% of the fine amount shall restore the appeal and dispose of the appeal in accordance with law after hearing both the sides afresh. The petitioner shall surrender/appear before the court of the Addl. Sessions Judge, Gomati District, Udaipur on 10.02.2026. If on that date the present petitioner-convict fails to deposit the amount in that case his further right shall be extinguished and the case shall proceed in accordance with law for execution of the sentence passed by the learned trial court. Liberty is further given to the Learned Court bellow to pass an appropriate order, if so required, on the prayer of the respondent complainant in accordance with the provision provided under Section 148(3) of NI Act.

11. A copy of the order be furnished free of cost to the counsel for the petitioner for information and compliance.

12. A copy of this order be communicated to the learned Addl. Sessions Judge, Gomati District, Udaipur for information and compliance.

With these observations, this petition stands disposed of.

Send back the records to the learned trial court.

JUDGE