

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS  2026:UHC:4654
			C528 No.1293 of 2026 <u>Hon'ble Rakesh Thapliyal, J.</u> Mr. Vikas Bahuguna, learned counsel for the applicant. 2. Ms. Meenakshi Sharma, learned AGA, for the State of Uttarakhand. 3. The instant application has been preferred by the applicant – Ramesh Singh Chauhan, under Section 528 of BNSS, 2023, challenging the order dated 01.06.2026, passed by the learned District and Sessions Judge, Champawat in Miscellaneous Criminal Case No.20 of 2026, “Ramesh Singh Chauhan Vs. Rahul Kumar Maurya”. 4. The brief facts of the case are that the respondent no.2/complainant initiate a proceeding under Section 138 of Negotiable Instruments Act, which was registered as Complaint Case No.1391 of 2024, “Rahul Kumar Maurya Vs. Ramesh Singh Chauhan”, wherein, the present applicant was convicted with the sentence of four months simple imprisonment and the fine of Rs.9,10,000/- by the judgment and order passed by the learned Civil Judge (Junior Division)/Judicial Magistrate, Tanakpur, District Champawat. 5. The complaint was based on an agreement entered between the parties on 16.08.2023. The applicant taken a defence before the Trial Court that since the complaint is based on an agreement dated 16.08.2023 and on the condition as stipulated in clause 5 of the agreement was not fulfilled, and therefore, in such eventuality, the cheque should not be presented for encashment. 6. Though Trial Court dealt with the defence plea and convict the present applicant under Section 138 of Negotiable Instruments Act. Being aggrieved with the order of the Trial Court, a statutory appeal was preferred before the learned

		District and Sessions Judge, Champawat, which was time barred, by two days', the appeal was registered as Miscellaneous Criminal Case No.20 of 2026, in which learned District and Session Judge, by the order dated 01.06.2026, directed the applicant to surrender before the court concerned. 7. Now being aggrieved with the order passed by the learned District and Sessions Judge, Champawat, dated 01.06.2026, in Miscellaneous Criminal Case No.20 of 2026, the instant application has been preferred. 8. Learned counsel for the applicant argued that learned Appellate Court committed an illegality while directing the applicant to surrender without deciding the delay condonation application. Though the offence punishable under Section 138 of Negotiable Instrument Act is bailable offence and during trial the applicant was on bail. 9. I found force on such submissions of the learned counsel for the applicant. The appeal preferred was statutory appeal by preferred against the order of the Trial Court, convicting the applicant under Section 138 of Negotiable Instrument Act, and if the appeal was time barred then in such an eventuality, the Appellate Court should decide the delay condonation application and then proceed with the appeal, however without deciding the delay condonation application directed the applicant to surrender before the court concerned is patently illegal and will frustrate the statutory appeal of the applicant. 10. In view of the observations as above, the instant application preferred under Section 528 of BNSS, 2023 is allowed. The impugned order dated 01.06.2026, passed by the learned District and Sessions Judge, Champawat, in Miscellaneous Criminal Case No.20 of 2026, is set aside, and the matter is remanded back to the learned District and Sessions Judge, Champawat, to decide the delay condonation application on its own merit
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			then proceed with the matter in accordance with law. 11. No order as to costs. (Rakesh Thapliyal, J.) 10.06.2026 Nitesh/
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