



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>C528/1430/2026</u> Pramila Devi --Applicant Versus State Of Uttarakhand --Respondent <u>Hon'ble Rakesh Thapliyal, J.</u> 1. Mr. Avidit Noliyal, learned counsel for the applicant. 2. Mr. Bhaskar Chandra Joshi, learned A.G.A. with Mr. Vijay Khanduri, learned Brief Holder for the State. 3. By the instant petition preferred under section 528 of BNSS, 2023, the present applicant, who is widow, is challenging the order dated 20.05.2026 passed in Criminal Appeal No. 59 of 2025 'Pramila vs. State and Another', whereby, the application moved by the applicant i.e. paper no. 22 <i>ka</i> seeking exemption to deposit 20 percent of the amount has been rejected. 4. It is submitted by the learned counsel for the applicant that while rejecting the application learned Appellate Court have not recorded any reason and deposit of 20 percent statutory amount is directory and not mandatory in view of the decision of Hon'ble Apex Court in the case of Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and Another 2023 SCC Online 1142. 5. On perusal of the order it reveals that the Appellate Court rejected the application after placing reliance of the judgment of the Hon'ble Apex Court in the case of Jamboo Bhandari (<i>supra</i>) but while placing reliance no reason has been recorded. It is contended by the learned counsel for the applicant that the present applicant is not in a position to deposit 20 percent amount at



			this juncture since she is only earning member in the family and is the widow, therefore, in such eventuality, the Appellate Court should exempt from depositing 20 percent of the amount. 6. In reference to this, learned counsel for the applicant drew attention of this court to section 148 of N.I. Act, which read as under: <i>“148. Power of Appellate Court to order payment pending appeal against conviction. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under Section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court: Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 143A. (2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant. (3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal: Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.”</i> 7. Sub-Clause 1 of Section 148 stipulates that in an appeal filed by the drawer against conviction under Section 138, of the N.I. Act, 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. 8. Learned counsel for the applicant submits that the issue, as raised in the instant petition, is squarely covered by the order of the Hon’ble Supreme Court. He further submits that Section 148 of the N.I. Act stipulates the word “may”, but that aspect has not been looked into by the order
--	--	--	--



			impugned passed by the Appellate Court. 9. In view of the discussion as above, impugned order is set-aside and the appellate court is directed to reconsider the application filed by applicant herein seeking waiver of the pre-deposit in view of Section 148 of the Negotiable Instruments Act,1881, in the light of the decision of Hon'ble Supreme Court in the case of Jamboo Bhandari (supra). 10. Subject to the direction as above instant C528 application is disposed of. (Rakesh Thapliyal, J.) 03.07.2026 PR
--	--	--	--