



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>C528/1605/2026</u> Vajir Ali --Applicant Versus State Of Uttarakhand --Respondent <u>Hon'ble Rakesh Thapliyal, J.</u> 1. Mr. Pawan Mishra, learned counsel for the applicant. 2. Mr. Bhaskar Chandra Joshi, learned A.G.A. for the State. 3. The present applicant 'Vajir Ali' S/o Munnu is aggrieved with the order of First Additional Sessions judge, Kashipur, District Udham Singh Nagar, whereby, the present applicant ,who was convicted under section 138 of N.I. Act directed to deposit 20 percent of the cheque amount within sixty days in terms of section 148 of N.I. Act in an appeal preferred against the order of conviction and sentence. 4. It is submitted by the learned counsel for the applicant that the applicant is a Farmer and he seeks exemption from depositing 20 percent of the amount by moving an application on 15.06.2026 but the plea as taken in the application is not considered at all. 5. Learned counsel for the applicant submits that the direction to deposit 20 percent of the amount in terms of section 148 of N.I. Act is not mandatory and directory as held by the Hon'ble Apex Court in the case of Jamboo Bhandari vs. Madhya Pradesh State Industrial Development Corporation Limited and Others (2023) 10 SCC 446. In this regard paragraph 6 and 7 of the judgment are quoted hereinbelow: <i>"6. What is held by this Court is that a purposive interpretation should be made of Section 148 of the</i>



			<i>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.</i> <i>7. Therefore, 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 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."</i> 6. On perusal of the order impugned, it reveals that the learned First Additional Sessions Judge, Kashipur, have not dealt with whether the condition to deposit 20 percent amount is mandatory or not. 7. In such view of the matter, the matter is remanded back to the learned First Additional Sessions judge, Kashipur, to consider the application of the applicant dated 15.06.2026 afresh in the light of the decision of the Hon'ble Apex Court in the case of Jamboo Bhandari vs. Madhya Pradesh State Industrial Development Corporation Limited and Others. 8. Since the matter is remanded back to the concerned Appellate Court the order impugned is set aside. 9. Subject to the observation and direction as above, the instant petition is disposed of accordingly. (Rakesh Thapliyal, J.) 27.07.2026 PR
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