

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.102 of 2022

Basanti Panda

....

Petitioner

Mr.S.M.Mohanty, Advocate

-versus-

Smurti Ranjan Panda

....

Opp.Party

Mr.Janmejay Ray, Advocate

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
11.5.2022**

Order No.

8.

1. Heard Mr.Mohanty, learned counsel for the Petitioner and Mr.Ray, learned counsel for the Opposite Party.
2. The grievance of the Petitioner in the present case is against the order dated 18.11.2021 of the Appellate Court i.e., the learned Sessions Judge, Mayurbhanj directing her to deposit 20% of the compensation amount for suspension of sentence and stay realization of the amount.
3. The Petitioner is the convict in ICC Case No.147 of 2013 for commission of offence under Section 138 of the N.I.Act and she was sentenced to undergo simple imprisonment for two years and to pay compensation of Rs.37,10,500/- to the complainant. The conviction and sentence being challenged before the learned Sessions Judge in appeal, the order impugned herein as stated above was passed upon admission of the appeal.
4. Mr.Mohanty, learned counsel for the Petitioner submits that the Petitioner is an old woman aged about 68 years and is a

cancer survivor. Her husband is also ailing and fighting against cancer. Under such circumstances, it is very difficult on her part to deposit 20% of the compensation amount, and considering the scope of Section 148 of the N.I.Act, she may be permitted to deposit a lesser amount.

4. Mr.Ray, learned counsel for the Opposite Party, on the other hand, objects such prayer stating that the Petitioner being a convict, no such sympathy can be extended in her favour, particularly in view of the compensation amount.

5. Section 148 of the N.I.Act stipulates that the appellate court may order to deposit of such sum, which shall be a minimum of twenty percent of the fine or compensation awarded by the trial court. The Supreme Court in the case of *Surinder Singh Deswal alias Col. S.S.Deswal vrs. Virender Gandhi*, (2019) 11 SCC 341 SC 2956, has observed that not to direct to deposit is an exception for which special reasons are to be assigned.

6. Upon hearing both parties and considering such submissions that the Petitioner is an old woman aged about 68 years, who is fighting against her ailments as well as her husband, the direction of the appellate court dated 18.11.2021 is modified to the extent that the Petitioner shall deposit an amount of Rs.2,50,000/- (two lakh fifty thousand) within a period of two months from today.

7. The appeal is accordingly disposed of.

8. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge