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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRR-7-2025 (O&M)
Date of decision: 09.01.2025**

Ravi Khanna

... Petitioner

Vs.

Inderpal Suri (since deceased) through his LRs

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. A.P.S. Sandhu, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present revision petition has been preferred against the order dated 17.12.2024 passed by learned Additional Sessions Judge, Amritsar, in case bearing CIS No.CRA/206/2024 titled as '*Ravi Khanna Vs. Inderpal Suri through his LRs etc.*' in the proceedings initiated under Section 138 of Negotiable Instruments Act, 1881 (for short 'N.I. Act') by the respondent(s), whereby the petitioner was directed to deposit 20% of the compensation amount awarded by learned trial Court on the next date of hearing i.e. 08.01.2025 and also directed the petitioner to deliver his passport to the Court

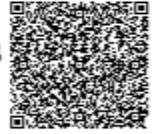
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immediately on or before the next date of hearing i.e. 08.01.2025, failing which his bail/surety bonds shall be cancelled, with a further direction to send his passport to the passport authority for taking appropriate action under Section 10(3) of the Passports Act, 1967.

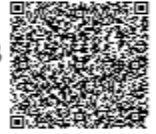
2. In brief, facts of the case are that a complaint was filed by the respondent(s) against the petitioner under Section 138 of N.I. Act on the allegation that the parties were having friendly relations. In the month of January, 2020, on the asking of the petitioner, the complainant advanced him a friendly loan of Rs.8.00 lacs for his personal needs. The petitioner assured the complainant to repay the said loan in the month of July, 2020. When the complainant demanded his money back, the petitioner issued a cheque bearing No.399868 dated 17.07.2020 amounting to Rs.8.00 lacs with an assurance that the same will be encashed on presentation in the bank. However, when the complainant presented the aforesaid cheque for clearing with his bank on 17.07.2020, the same was returned vide memo dated 18.07.2020 with the remarks 'Funds Insufficient'. Thereafter, the complainant served a legal notice dated 21.07.2020 through registered post on 22.07.2020 to the petitioner to make the payment within a period of 15 days, but the petitioner failed to discharge his legal liability. The respondent-complainant filed a complaint under Section 138 of NI Act, in which the petitioner stood convicted by learned Judicial Magistrate 1st Class, Amritsar, vide judgment of

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conviction and order of sentence dated 03.07.2024 and sentenced him to undergo simple imprisonment for a period of six months along with default mechanism and further to pay compensation to the tune of cheque amount along with simple interest @9% per annum. Against the aforesaid judgment of conviction and order of sentence, the petitioner preferred an appeal before learned Additional Sessions Judge, Amritsar, who, vide impugned order dated 17.12.2024, directed him to pay 20% of the compensation amount before the next date of hearing i.e. 08.01.2025 and also directed the petitioner to deliver his passport to the Court immediately on or before the next date of hearing i.e. 08.01.2025, failing which his bail/surety bonds shall be cancelled, with a further direction to send his passport to the passport authority for taking appropriate action under Section 10(3) of the Passports Act, 1967. Against this order, the petitioner approached this Court by way of instant petition.

3. Learned counsel for the petitioner, *inter alia*, contends that imposition of condition to deposit 20% of the compensation amount is unjust and arbitrary and against the proposition of law settled in the judgments passed by the Hon'ble Supreme Court in ***Jamboo Bhandari Vs. MP Industrial Development Corporation Ltd. and others, 2013 (12) SCALE 611*** and ***Muskan Enterprises and another Vs. The State of Punjab and another, Criminal Appeal No.5491 of 2024, arising out of SLP (Crl.) No.8072 of 2024, decided on 19.12.2024***, wherein it is held that deposit of minimum 20%



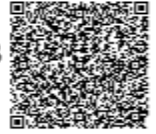
of the compensation amount is not an absolute rule. It is further contended that deposit of 20% of the compensation amount cannot be a condition precedent and learned Appellate Court ought to have considered the exceptional circumstances for waiving off the said condition. With regard to issue of direction to the passport authority by learned Additional Sessions Judge, Amritsar to take appropriate action under Section 10(3) of Act of 1967, learned counsel for the petitioner relies upon judgments of the Hon'ble Supreme Court in ***Suresh Nanda Vs. CBI, 2008 (1) RCR (Crl) 897***, of Madras High Court passed in ***Savita Kainya Vs. Arun Kumar Kainya, W.P. Nos.28760 & 28761 of 2015 and MP No.1 of 2015, decided on 26.11.2015*** and of this Court in ***Jaideep Singh Vs. Sahil Petroleum and another, 2020 (3) RCR (Crl) 571***.

4. Having heard learned counsel for the petitioner and after perusing the record of the case, it transpires that learned Appellate Court has passed the impugned order without considering the exceptional circumstances qua imposition of condition of deposit of 20% of the compensation amount.

5. A two Judge Bench of the Hon'ble Supreme Court in ***Jamboo Bhandari's*** case (*supra*), speaking through Justice Abhay S. Oka has held as under:-

“6. What is held by this Court is that a purposive interpretation should be made of Section 148 of the N.I. Act. Hence, normally, Appellate Court will be justified in imposing the condition of

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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.

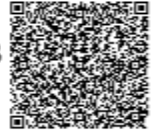
7. Therefore, when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an accused, who has been convicted for offence under Section 138 of the N.I. Act, it is always open for the Appellate Court to consider whether it is an exceptional case which warrants grant of suspension of sentence 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.”

6. Recently, the Hon’ble Supreme Court in **Muskan Enterprises’s** case (*supra*), speaking through Justice Dipankar Datta, has taken the similar view as taken in **Jamboo Bhandari’s** case (*supra*).

7. With regard to impounding the passport of an accused under Section 10(3) of Act of 1967, a two Judges Bench of the Hon’ble Supreme Court in **Suresh Nanda’s** case (*supra*) has held as under: -

“In our opinion, even the Court cannot impound a passport. Though, no doubt, Section 104 Cr.P.C. states that the Court may, if it thinks fit, impound any document or thing produced before it, in our opinion, this provision will only enable the Court to impound any document or thing other than a passport. This is because impounding a passport is provided for in Section 10(3) of the Passports Act. The Passports Act is a special law while the Cr.P.C. is a general law. It is well settled that the special law prevails over the general law vide G.P. Singh's Principles of Statutory Interpretation (9th Edition pg. 133). This

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principle is expressed in the maxim Generalia specialibus non derogant. Hence, impounding of a passport cannot be done by the Court under Section 104 Cr.P.C. though it can impound any other document or thing.”

8. In view of the settled law, the impugned order dated 17.12.2024 is set aside to the extent of imposition of condition of depositing 20% of the compensation amount and the matter is remanded back to learned Additional Sessions Judge, Amritsar to re-examine the case after granting an opportunity to the petitioner to make submissions regarding the exceptional circumstances, which warrants waiver of the requirement of deposit of 20% of the compensation awarded by learned trial Court, in the light of judgment passed by the Hon'ble Supreme Court in ***Jamboo Bhandari***'s case (*supra*). Learned Additional Sessions Judge, Amritsar is also directed to decide the case afresh with regard to impounding of passport of the petitioner, in view of judgment of the Hon'ble Supreme Court in ***Suresh Nanda***'s case (*supra*), whether the passport can be impounded by the Court or not.
9. Present petition stands disposed of in the aforesaid terms.

09.01.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No