

2025:PHHC:007745



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

137

CRM-M No.3083 of 2025
Date of decision: 20.01.2025

Baldev Singh

....Petitioner

Versus

M/s. Shri Ram Transport Finance Company Limited and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rhythem Bajaj, Advocate
for the petitioner.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is for quashing of order dated 16.10.2024 (Annexure P-2) passed by learned Additional Sessions Judge, Fazilka, vide which the petitioner was directed to deposit 20% of the compensation amount. Further prayer has been made to stay the operation of the impugned order dated 16.10.2024, during the pendency of the present petition.

2. The brief facts of the case are that the complainant/respondent is a non-banking finance company engaged in financing, leasing, and hire purchase. The petitioner approached the complainant/respondent for a loan to finance a vehicle i.e. Tata LPS 4018-1, under registration No.PB-03P-9972 for personal use. The complainant advanced a loan of Rs.5 Lac to the petitioner. However, the

2025:PHHC:007745



petitioner defaulted on the repayment of installments, violating the terms of the loan agreement. In discharge of his liability, the petitioner issued 04 cheques to the complainant, drawn on his account at Punjab National Bank, Danewala, Malout, as follows:

1. Cheque No. 641478 dated 24.09.2019 for Rs. 5,00,000/-
2. Cheque No. 641479 dated 03.10.2019 for Rs. 2,34,167/-
3. Cheque No. 641480 dated 14.10.2019 for Rs. 2,34,167/-
4. Cheque No. 641481 dated 16.10.2019 for Rs. 2,34,167/-

The complainant presented the cheques, but they were dishonored and the petitioner's banker sent a memo dated 16.10.2019 with remarks indicating the cheques were dishonored. As a result, the petitioner failed to repay the cheque amounts and the outstanding loan amount. The complainant issued a legal notice to the accused/petitioner on 23.10.2019, but the petitioner did not make the payment within the notice period. Consequently, a complaint under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the NI Act') (Annexure P-1) was filed against the accused/petitioner. Thereafter the petitioner was summoned and thereafter, he was released on bail and later on, he was convicted by the learned Judicial Magistrate Ist Class, Abohar, vide judgment dated 19.09.2024 and he was sentenced to undergo RI for a period of 02 years and compensation of equivalent to the cheque amount and in default of payment to further undergo simple imprisonment for a period of 03 months. Thereafter, the petitioner filed an appeal against the said order dated 19.09.2024, which stands admitted and is pending adjudication before the learned Additional Sessions Judge, Fazilka, however, vide impugned order dated

2025:PHHC:007745



16.10.2024 (Annexure P-2), the petitioner was directed to deposit 20% of the compensation amount within a period of 60 days. Against the said order (Annexure P-2), the petitioner has approached this Court by way of instant petition.

3. Learned counsel for the petitioner *inter alia* contends that while allowing the application of the petitioner seeking suspension of sentence, imposition of condition to deposit 20% of the compensation amount is unjust and arbitrary and against the proposition of law settled in the judgment passed by the Hon'ble Supreme Court in ***Jamboo Bhandari Vs. MP Industrial Development Corporation Ltd. and others 2013 (12) SCALE 611***, 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, while allowing bail to the petitioner and the learned Appellate Court ought to have considered the exceptional circumstances for waiving off the said condition.

4. Having heard learned counsel for the petitioner and after perusing the record of the case, it transpires that the 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:-

2025:PHHC:007745



“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 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. In view of the settled law, the learned Lower Appellate Court was required to consider whether the present case falls in the exception or not. Consequently, the impugned order dated 16.10.2024 is set aside to the extent of imposition of condition of depositing 20% of the compensation amount and the matter is remanded back to the learned Lower Appellate Court 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 the learned trial Court,

2025:PHHC:007745



in the light of judgment passed by the Hon’ble Supreme Court in *Jamboo Bhandari’s case (supra)*.

7. The instant petition stands disposed of in above terms.

(HARPREET SINGH BRAR)
JUDGE

20.01.2025
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No