



CRM-M-10374-2025 (O&M) 1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-9629-2025 in/and
CRM-M-10374-2025
Date of decision : 26.03.2025

Ashok Kumar

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present: Ms. Pinki Mehta, Advocate, for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

H.S. GREWAL, J. (Oral)

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This is an application for preponement of main case from 06.05.2025 to some early date.

In view of the averments in the application, the prayer made in the application is allowed and the main case is preponed from 06.05.2025 and taken up on board today itself.

Main Case

1. The instant petition has been filed under Section 528 of BNSS seeking setting aside of order dated 17.01.2025 (Annexure P-4), passed by the Court of learned Sessions Judge, Kaithal in CRA-29-2025 dated 17.01.2025 titled as "Ashok Kumar vs. Narender Kumar", whereby, while suspending the sentence of the petitioner, as awarded to him in complaint filed under Section 148 of Negotiable Instruments Act, 1881 (for short 'N.I. Act'), the learned appellate Court had directed him to deposit 20% of the compensation/fine amount as awarded by the trial Court within the stipulated period.

2. It is argued by learned counsel for the petitioner that the impugned

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order is not sustainable in the eyes of law as learned appellate Court, while giving such direction, failed to consider the fact that the deposit of 20% of the compensation amount was not absolute requirement for suspension of sentence and this condition was to be imposed in exceptional circumstances. Hence, it is urged that the impugned order passed by the appellate Court is liable to be set aside.

3. On a perusal of the record, it is revealed that the learned trial Court, vide judgment of conviction and quantum of sentence dated 18.12.2024, passed in a complaint filed under Section 138 of N.I. Act, had held the petitioner guilty for commission of offence punishable under the aforementioned section and apart from awarding sentence to undergo rigorous imprisonment for a period of 02 months, had also directed him to pay compensation of Rs.1,40,000/- in terms of Section 357(3) Cr.P.C.. The petitioner challenged the order passed by the trial Court by filing appeal before the learned appellate Court and the appellate Court, vide impugned order dated 17.01.2025, suspended the sentence of petitioner, subject to his depositing 20% of the compensation amount with the trial Court.

4. In **Jamboo Bhandari vs. M. P. State Industrial Development Corporation Ltd. And others: (2024) 1 SCC (Cri) 90**, it was observed by Hon'ble Supreme Court that deposit of 20% of the compensation amount was not an absolute requirement for suspension of sentence, if the Court is satisfied that the condition of such deposit will be unjust or imposing of such a condition will amount to deprivation of the right of appeal of the appellant. This proposition of law is shown to have been followed by the co-ordinate Bench of this Court in **Abdul Rashid vs. Kuldeep Singh, CRM-M-3878-2024, decided on 24.01.2024**. In the instant case, while imposing condition



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of deposit of 20% of compensation amount, the learned appellate Court is not shown to have given any opportunity to the petitioner to make submissions regarding the exceptional circumstances warranting requirement of waiver of depositing of 20% of compensation amount and is shown to have imposed the said condition without the same. Therefore, keeping in view the settled proposition of law to the effect that the appellate Court was firstly required to consider as to whether the instant case falls within the exceptions warranting grant of suspension of sentence without imposing condition of deposit of 20% of compensation amount/fine, the impugned order dated 17.01.2025 cannot be stated to be sustainable to the extent to which the condition of deposit of 20% of the compensation amount was imposed. Accordingly, the same is set aside to that extent.

5. The matter is remanded to learned appellate Court for deciding the same afresh after re-examining the case by granting an opportunity to the petitioner to make submissions regarding exceptional circumstances warranting waiver of requirement of depositing 20% of the compensation amount in pursuance of judgment passed by Hon'ble Supreme Court in **Jamboo Bhandari's case (supra)**.

6. The petition stands allowed.

7. The petitioner is directed to appear before the appellate Court on 22.04.2025.

(H.S. GREWAL)
JUDGE

26.03.2025

anil

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No