



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

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**CRM-M-19508-2025 (O&M)
Date of decision: 08.04.2025**

Bohar Singh

....Petitioner

Versus

Radhey Sham Kashyap

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashok Kumar Sama, 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 05.08.2024 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 05.08.2024, during the pendency of the present petition.

2. The brief facts of the case are that a complaint was filed by the respondent/complainant against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') on the ground of dishonouring of cheque bearing No.356752 dated 25.03.2021 amounting to Rs.4,00,000/- issued in favour of the complainant/respondent by the petitioner in discharge of the liability. Vide judgment of conviction and order of sentence dated 05.07.2024,



the petitioner was convicted and sentenced to undergo simple imprisonment for a period of one year and was further directed to pay compensation to the tune of Rs.8,00,000/- i.e. double the amount of cheque, and in default of payment of compensation to further undergo simple imprisonment for a period of 02 months. Thereafter, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Fazilka. The learned Lower Appellate Court vide order dated 05.08.2024, suspended the sentence of the petitioner subject to depositing 20% of the compensation amount within 60 days from the date of order.

3. Learned counsel for the petitioner, *inter alia*, contends that the learned lower Appellate Court failed to appreciate the facts in the right perspective and imposed the condition to deposit 20% of the compensation and such a condition is illegal, arbitrary and in violation of the law as laid down by the Hon'ble Supreme Court in "***Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others***", 2013 (12) SCALE 611, speaking through Justice Abhay S. Oka, it has been held as follows:-

"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.”

4. Having heard learned counsel for the petitioner and after perusing the judgment passed in ***Jamboo Bhandari (supra)***, the learned Lower Appellate Court was required to consider whether the present case falls in the exception or not. The impugned order dated 05.08.2024 whereby, the condition of depositing 20% of the compensation amount awarded has been imposed for granting suspension of sentence, is hereby set-aside.

5. The learned Lower Appellate Court is directed to re-examine the case after granting an opportunity to the petitioner to make submissions regarding the exceptional circumstances and decide whether it is an appropriate case that warrants waiver of the requirement of deposit of 20% of the compensation awarded by learned trial Court.

6. The matter is remanded back to the learned Lower Appellate Court with a direction to decide the matter afresh in



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

7. The petition stands disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

08.04.2025
yakub

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