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

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CRM-M-29272-2025
Date of decision : 26.05.2025

Virender Singh

... Petitioner

Versus

HDFC Bank Ltd.

.. Respondent

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

Present:- Mr. Munish Garg, Advocate for the petitioners.

H.S. Grewal, J.(Oral)

1. The instant petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 seeking quashing of impugned orders dated 09.04.2025 (Annexure P-4) and 19.05.2025 (Annexure P-5), passed by the learned Addl. Sessions Judge, Kaithal in CRA No. 15 of 2025 vide which the learned appellate Court had directed him to deposit 20% of the compensation amount as awarded by the trial Court, within a period of 60 days under Section 148(1) and (2) of the Negotiable Instruments Act.

2. It is argued by learned counsel for the petitioner that the impugned 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 learned appellate Court is liable to be set aside.

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3. On a perusal of the record, it is revealed that the learned trial Court, vide judgment of conviction dated 09.12.2024, 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 simple imprisonment for a period of six months, had also directed him to pay compensation amounting to Rs.20,00,000/- to the respondent-Bank. The petitioner challenged the order passed by the trial Court by filing aforesaid appeal before the learned appellate Court and the appellate Court, vide order dated 08.01.2025, suspended the sentence of petitioner and vide impugned orders dated 09.04.2025 & 19.05.2025, the appellant was directed to make payment of 20% of the compensation amount to the respondent-Bank.

4. Reliance has been placed upon judgment of Hon'ble Supreme Court in case '**Rakesh Ranjan Shrivastava Vs. State of Jharkhand, 2024(2) RCR (Criminal) 279**', the relevant portion of the said judgment reads as under:

"16. When the court deals with an application under Section 143A of the N.I. Act, the Court will have to prima facie evaluate the merits of the case made out by the complainant and the merits of the defence pleaded by the accused in the reply to the application under sub-section (1) of Section 143A. The presumption under Section 139 of the N.I. Act, by itself, is no ground to direct the payment of interim compensation. The reason is that the presumption is rebuttable. The question of applying the presumption will arise at the trial. Only if the complainant makes out a prima facie case, a direction can be issued to pay interim compensation. At this stage, the fact that the accused is in financial distress can also be a consideration. Even if the Court concludes that a case is made out for grant of interim compensation, the Court will have to apply



its mind to the quantum of interim compensation to be granted. Even at this stage, the Court will have to consider various factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant and the paying capacity of the accused. If the defence of the accused is found to be prima facie a plausible defence, the Court may exercise discretion in refusing to grant interim compensation. We may note that the factors required to be considered, which we have set out above, are not exhaustive. There could be several other factors in the facts of a given case, such as, the pendency of a civil suit, etc. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all the relevant factors.”

5. Further, reliance has also been placed on in case “**Jamboo Bhandari vs. M. P. State Industrial Development Corporation Ltd. And others**” (2024) 1 SCC (Cri) 90, wherein Hon’ble Supreme Court has held 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.

6. 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 of deposit of 20% of compensation amount, the learned appellate Court is not shown to have given any opportunity to the petitioners 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

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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 orders dated 09.04.2025 and 19.05.2025 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 are set aside to that extent.

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

8. The petition stands allowed.

9. The petitioner is directed to appear before the appellate Court on 09.06.2025.

(H.S.GREWAL)
JUDGE

26.05.2025*renu*

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