



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

CRM-M-36340-2025 (O&M)

Date of Decision: 14.07.2025

PARGAT SINGH

...Petitioner

V/S

HDFC BANK LIMITED

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sumeet Singh Brar, Advocate
for the petitioner.

HARPREET SINGH BRAR J. (Oral)

1. The present petition under Section 528 of BNSS, 2023 has been filed for quashing/setting aside of order dated 24.02.2025 (Annexure P-2) passed by learned Additional District & Sessions Judge, Fazilka in a complaint filed under Section 138 of Negotiable Instruments Act, 1881 bearing No. NACT/556/2020 dated 24.01.2025 in CRA No. 75 of 2025, whereby the petitioner was directed to deposit 20% of the compensation amount awarded by learned trial Court.

2. The present complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as N.I. Act) has been initiated by the respondent-bank with the submissions that petitioner has taken loan of Rs. 7,20,000/- and has given a cheque on 08.07.2020 for an amount of Rs. 4,65,000/- and the same was dishonoured for "Funds Insufficient". Hence, this complaint.

3. Vide judgment of conviction and order on quantum of sentence dated 24.01.2025 passed by learned Judicial Magistrate Ist Class, Fazilka, the petitioner was convicted under Section 138 of NI Act and sentenced to undergo simple imprisonment for a period of one year for commission of offence punishable under Section 138 of Negotiable Instruments Act and was



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further directed to pay compensation to the tune of Rs.4,65,000/- (i.e. the cheque amount) to the complainant-respondent bank, along with default mechanism. 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 Appellate Court vide order dated 24.02.2025, suspended the sentence of the petitioner subject to depositing 20% of the compensation amount within 60 days of passing of the order.

4. 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 amount and such a condition is illegal, arbitrary and in violation of the law as laid down by the Hon'ble Supreme Court in **Criminal Appeal Nos.2741 of 2023 (@ SLP(CrI.) Nos. 4927 of 2023 *Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others***, decided on 04.09.2023. 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 petitioner 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



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is an exceptional case, the reasons for coming to the said 4 conclusion must be recorded.”

5. Having heard learned counsel for the petitioner and after perusing the judgment passed in ***Jamboo Bhandari (supra)***, the lower Appellate Court was required to consider whether the present case falls in the exception or not. The impugned order dated 24.02.2025 (Annexure P-2) is hereby set aside to the extent of imposing the condition of depositing 20% of compensation amount. 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 is disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

14.07.2025
Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>