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

CRM-M-41804-2025

Date of Decision: 06.11.2025

M/S SANDHYA KAUSHIK AND ANOTHER

.....PETITIONERS

VERSUS

E9 BUSINESS SOLUTIONS PVT. LIMITED

....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

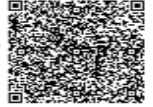
Present: Mr. Gaurav Datta, Advocate
for the petitioners.

Mr. Anshul Mangla, Advocate for the respondents.

AARADHNA SAWHNEY, J. (ORAL)

By virtue of the present petition, petitioner is *inter-alia* seeking quashing of impugned order dated 20.12.2024 passed by the learned Additional Sessions Judge, Chandigarh, whereby the operation of the judgment and order dated 28.11.2024 (Annexure P-2) passed by the learned Judicial Magistrate 1st Class, Chandigarh, was stayed till the disposal of the appeal and the sentence imposed upon petitioner, the order of imposition of compensation was suspended till disposal of the appeal, with a direction to deposit 20% of the compensation amount with Court.

2. Learned counsel for the petitioner contends that imposing



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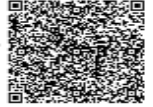
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condition of deposit of 20% of the cheque amount, while suspending the sentence of the petitioner, by the first Appellate Court, is too onerous. Petitioner is facing extreme financial crunch and is not able to abide by the aforesaid condition. It is further the submission of learned counsel that the learned first Appellate Court proceeded on an assumption that deposit of minimum 20% of the cheque amount is an absolute rule to entertain the appeal. Even though, petitioner-appellant brought to the notice of the learned Additional Sessions Judge, the financial distress faced by her and requested for modifying the said condition but no heed was paid. Rather during the pendency of the present petition, her application for grant of exemption from appearing in the Court was also dismissed by the First Appellate Court in a purely mechanical manner. Learned counsel has also referred to the judgment passed by the Division Bench of this Court in CRM-M-7799-2025 decided on 24.09.2025, wherein while dealing with appeals u/s 138 NI Act, following four questions were framed and answered:

(a) Whether imposition of condition to deposit 20% of the compensation amount awarded by the Trial Court, is sustainable or not, while deciding the application for suspension of sentence in an appeal, when the judgment of conviction and order of sentence is still awaiting confirmation?

(b) Whether the right of the convict-appellant being on bail in pending appeal, can be subjected to the compliance of direction to pay 20% of the compensation amount under Section 148 of the NI Act?

(c) Whether the right of bail can be taken away by the Appellate Court, where final adjudication of the appeal is pending, due to non-compliance of the direction to pay 20%



of the compensation amount under Section 148 of the NI Act, for any justifiable or un-justifiable reason, as discussed in the cases of Jamboo Bhandari¹ and Muskan Enterprises²?

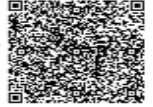
(d) Whether it is a pre-condition to deposit 20% of the compensation amount awarded by the Trial Court for getting an appeal decided?

While answering to the first question, it was held as under:

18. However, while dealing with the proposition of law, as done in Surinder Singh Deswal's case (supra), in the case of Jamboo Bhandari (supra), Hon'ble Supreme Court enlarged the scope of discretion even to the extent that there can be hundred percent waiving of the deposit of 20% of the compensation/fine amount by the Appellate Court, if the appeal and the other circumstance(s) in its view falls under the category of exception. At the same time, it is necessary to bear in mind that such a situation was visualized by the Hon'ble Supreme Court, especially where the plea of suspension of sentence is to be considered without imposing any condition.

22) The words, "Whether sufficient ground has been made out by the appellants to persuade the Sessions Court not to order any deposit is left entirely to its discretion and satisfaction", used by the Hon'ble Supreme Court in Muskan Enterprises (supra), would certainly include a reduction of the amount below 20%, because if the Appellate Court can exempt the entire 20%, it can also reduce the deposit below 20% depending upon the convict's financial capacity. Any other interpretation would imply that even if a convict is willing to pay some amount, e.g., 15%, 10%, or 5%, and the Appellate Court exempts the entire amount, thereby preventing the complainant from collecting whatever the convict can afford to pay.

36. After analyzing the statutory provision vis-à-vis the judicial precedents referred to above, the answer to the first proposition



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is that the imposition of condition to deposit 20% of the compensation amount awarded by the Trial Court, is sustainable, while deciding the application for suspension of sentence in an appeal, when the judgment of conviction and order of sentence is still awaiting confirmation.

While answering the second question, it was held as under:

40. Answer to the second proposition was once addressed by Surinder Singh Deswal supra [Second case], where the Hon'ble Supreme Court held that when an Appellate Court suspends the sentence on a condition, then the failure to comply with that condition adversely affects the continuation of the suspension.

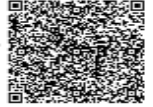
41. The Appellate Court that has suspended the sentence on a condition, after observing non-compliance, could reasonably hold that the suspension stood vacated due to the non-compliance, and it is the responsibility of the said Appellate Court, which granted the suspension, to consider the non-compliance and make an appropriate decision. Nonetheless, non-compliance with the suspension condition is enough to declare that the suspension has been vacated.

while referring to the third question, it was held that as under -

51. In the light of the judicial precedents mentioned above, the answer to the third proposition is that the right of bail cannot be taken away by the Appellate Court, where final adjudication of the appeal is pending, due to non-compliance with the direction of paying 20% of the compensation amount under Section 148 of the NI Act. Whenever an Appellate Court directs a deposit under Section 148 of the NI Act and imposes conditions on the suspension of sentence, such conditions must be just conditions.

while referring to the fourth question, it was held that as under-

72. When the convict challenges the conviction, sentence, or compensation by filing an appeal, the requirement to deposit



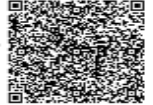
20% or more of the fine amount or compensation is not an absolute rule and is subject to exceptions mentioned in Jamboo Bhandari (supra) and Muskan Enterprises (supra), it can be reduced to below the statutory minimum of 20% or even waived in exceptional cases by assigning reasons.

73. The statutory intention under Section 148 NIA is that when the complaint has been allowed, which means, the stand taken by the complainant regarding the dishonor of a cheque, has been substantiated in the trial, and such a convict challenges that judgment by filing an appeal, then during the pendency of appeal, i.e. if the appeal is not decided within 60 days, extendable by 30 days, then the convict might be compelled to deposit the amount as was directed, by taking recourse to Section 395 BNSS, 2023.

74. Given the above, the deposit of a minimum 20% amount is not an absolute rule.

76. Therefore, the simplest solution to all these issues is that whenever the deposits are expensive than the liberty, and the Appellate Courts are convinced that the convicts are not in a position to deposit and likely to forego their liberty even when the first appeal is yet to be decided, the Appellate Courts must make efforts to prioritize hearing appeals filed against the convictions under Section 148 NI Act and decide those preferably within sixty days of filing, and not later than ninety days, which clearly aligns with the legislators' intentions. However, the time of sixty days should be extended to the extent to which the decision of the appeal is delayed because of the complainant.

3. Relying heavily on the aforesaid judgment, learned counsel contends that imposing condition of deposit of 20% of cheque amount, while suspending the sentence of the appellant, is not an absolute rule and given the financial scenario in which she (A) is presently placed the same would



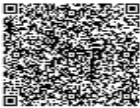
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be extremely harsh. Towards the end, learned counsel further contends that with great difficulty and taking help from all relatives, family members and well-wishers, petitioner has been able to arrange 10 per cent of the cheque amount and is willing to make the said payment within a period of seven days from today. She be allowed to deposit the said amount and her appeal be decided on merit.

4. *Per contra*, learned counsel for the respondent submits that learned First Appellate Court in terms of the impugned order took note of all the submissions advanced by the petitioner and only thereafter rightly arrived at a conclusion that petitioner has failed to make out a case of exceptional hardship in her favour warranting any modification of the order vide which she was directed to deposit 20 % of the cheque amount. It is further the submission of learned counsel that petitioner is a habitual litigant and is facing many complaints of the like nature. The cheque in question pertains to 2020, Criminal complaint also having been filed in the same year, complainant has been made to suffer for no fault of his, moreover since the institution of the complaint, not a single penny has been paid to him. Nonetheless, after seeking instructions from respondent-complainant, learned counsel for the respondent contends that in case petitioner abides by the undertaking given by her in the Court through her counsel, complainant would not raise any objection, provided some time period is fixed for the disposal of the appeal on merits.

5. Referred judgment has been carefully looked into. In view thereof as also in view of the undertaking given by the petitioner through her counsel, the present petition is disposed of with a direction to petitioner to



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appear before the learned First Appellate Court within a period of seven days from today alongwith 10 per cent of the cheque amount. On her appearance, learned First Appellate Court shall admit her to the concession of bail on conditions it so deems appropriate.

6. The learned First Appellate Court shall also make serious endeavour to decide the appeal within a period of three months from the receipt of certified copy of the order. It is made clear that no unnecessary adjournment shall be sought by either petitioner or her counsel.

06.11.2025

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(AARADHNA SAWHNEY)
JUDGE

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