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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50256-2025 (O&M)
Date of Decision: 10-09-2025

Hari Om Goyal

.....Petitioner(s)

Versus

Shri Shyam Transport and Trading Co.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Keshav Pratap Singh, Advocate
for the petitioner(s).

ANOOP CHITKARA, J. (Oral)

Trial Court:

Case No.	138 NI-18-2018 under Section 138 of the Negotiable Instruments Act before Sub Divisional Judicial Magistrate, Punhana, Distt. Nuh Date of decision: 16.07.2025
Names of accused/ convict	Hari Om Goyal
Conviction under sections	138 Negotiable Instruments Act
Sentence imposed	Simple imprisonment for one year and fine of Rs.1,32,00,000/-. The said fine was payable to the complainant as compensation.

Appellate Court:

Criminal Appeal	No. CRA-96-2025 before Additional Sessions Judge, Nuh Date of decision: 01.08.2025
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1. Aggrieved by the direction given in the order dated 1.8.2025 passed by Additional Sessions Judge, Nuh, vide which the petitioner-convict has been directed to pay 20% amount of the compensation awarded by the trial Court, which is the minimum requirement as per the statute, the petitioner-convict has come up before this Court under Section 528 BNSS.
2. Counsel for the petitioner submits that the prayer of the petitioner to waive off the condition to deposit the 20% amount of the compensation was rejected by the appellate Court and his exceptional circumstances have not been considered while passing the impugned order. He further submits that the petitioner had not mentioned his exceptional circumstances in the application for suspension of sentence at the time of filing the application, for the reason that at the time of filing the application, the law was

not settled and therefore, the convict could not point out the exceptional circumstances. However, now, the law is somewhat settled by the Hon'ble Supreme Court in the cases of *Muskan Enterprises vs The State Of Punjab 2024 INSC 1046* and *Jamboo Bhandari Vs. M.P. State Industrial Development Corporation Ltd. And others 2023 INSC 822* wherein Courts are permitted to consider exceptional circumstances of the convict while passing the order to deposit amount. He further submits that he would be contented and satisfied if he is permitted to file a fresh application by mentioning his exceptional circumstances in tune with aforesaid judicial pronouncements and the appellate Court be directed to reconsider his application afresh in accordance with law.

3. Even in *Muskan Enterprises (supra)*, the Hon'ble Supreme Court had remanded the matter back, in somewhat similar circumstances. Needless to say that it has been clarified by the Hon'ble Supreme Court that financial incapacity cannot be exceptional circumstance.

4. At the time of ordering deposit of 20% of the amount of compensation, the complainant was not present, as is apparent from the order. Consequently, no prejudice could be caused to the complainant who was unrepresented before the appellate Court and as such, no notice is required to be issued to the complainant at this stage.

5. In the entirety of facts and circumstances of the case, without observing anything about the merits of the case, the petitioner makes out a case for any exceptional circumstance or carving any situation in terms of ratio of *Muskan Enterprises* and *Jamboo Bhandari (supra)*. Accordingly, the present petition is allowed, the order dated 01.08.2025 (Annexure P-3) is set aside, with liberty to the petitioner to file a fresh application before the appellate/Sessions Court.

6. In case any such application is filed on or before 25.09.2025, the concerned Court shall decide the same in the light of ratio of aforesaid judgments of Hon'ble Supreme Court (*supra*) afresh and pass an order in accordance with law. All pending application(s), if any, shall stand disposed of.

10-09-2025
AK

(ANOOP CHITKARA)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO