



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

126

CRM-M-51597-2025

Date of Decision : 15.09.2025

HARPREET SINGH SAMRA**...Petitioner****VERSUS****RESHAMPAL SINGH****...Respondent****CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY**

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner, who was convicted in criminal complaint/NACT No.154/2020 dated 25.02.2020 titled *Reshampal Singh Vs. Harpreet Singh Samra*, for commission of offence punishable under Section 138 of Negotiable Instruments Act, by the learned JMIC, Malerkotla, in terms of order dated 19.02.2019 (Annexure P-1), filed criminal appeal bearing No. 40 of 2025, along with application for suspension of sentence. The same was allowed by the learned First Appellate Court. Vide order dated 18.03.2025 (Annexure P-4), the sentence was suspended and petitioner was granted the concession of bail during pendency of the appeal, subject to the payment of 20% amount of the compensation so awarded by the trial Court, within 60 days.

In the present petition, petitioner has prayed for quashing of aforesaid order dated 18.03.2025 (Annexure P-4), to the limited extent that condition of deposit of 20% amount of the compensation, being too onerous be set aside. Moreover, petitioner was not heard before the said order was passed.



2. Learned counsel for the petitioner submits that petitioner was convicted and sentenced to simple imprisonment for a period of 01 year and to pay compensation under Section 138 NI Act, vide judgment and order dated 19.02.2025 (Annexure P-1) passed by the learned Judicial Magistrate Ist Class, Malerkotla in a criminal complaint bearing NACT No.154 of 2020, under Section 138 of NI Act filed by the respondent. Aggrieved of the same, petitioner preferred an appeal against the said judgment and order of sentence, along with application for suspension of sentence. Vide order dated 18.03.2025, learned Appellate Court disposed of the application of the petitioner in the following terms:-

*“Furthermore, as per the law laid down in case law titled as, **“Surinder Singh Deswal @ Col. S.S. Deswal and ors. Vs. Virender Gandhi Law Finder Doc. Id 1482558”** decided by the Hon'ble Supreme Court of India and case law titled as, **“Harwinder Singh Vs. Mohan Lal CRM-M-37048-2021”** decided by Hon'ble High Court of Punjab and Haryana vide order dated 10.11.2021, it is obligatory for this Court to secure the ends of justice by directing the deposit of 20% of the amount of compensation awarded by the Learned Trial Court in this case, which is to be deposited by the appellant and thereafter, is payable to the complainant.*

Thus, to meet the ends of justice, the appellant is directed to deposit in this Court within 60 days from today 20% of the cheque amount awarded as compensation by the Learned Trial Court vide impugned Judgment and Sentence order dated 19.02.2025 and thereafter, this 20% amount shall be disbursed to the complainant/respondent within 10 days thereafter on furnishing of the personal indemnity bonds of the equal amount, so that the same will be reimbursed to the appellant, if the present appeal filed by the appellant may succeed on merits. Both the parties shall remain bound by the provisions of the aforesaid Section 148 of the Negotiable Instruments Act with respect to the deposit of the aforesaid 20% amount. The sentence imposed upon the appellant



vide sentence order dated 19.02.2025 is hereby suspended subject to the aforesaid conditions during the pendency of the present appeal, further subject to furnishing of bail bonds by the appellant Harpreet Singh in the sum of Rs. 30,000/- with one surety in the like amount to the satisfaction of the Learned Trial Court/Duty Magistrate concerned within 30 days, who shall send back the bail bonds and surety bonds to this Court after its attestation.”

Learned counsel for the petitioner further submits that the observation made by the learned First Appellate Court that it is obligatory for the petitioner-convict to deposit 20% of the compensation amount, is totally illegal and not in ‘Sync’ with the latest law on the point in issue. At this stage, learned counsel drawn the attention of this Court to law laid down by the Hon’ble Supreme Court in Criminal Appeal Nos.2741 of 2023 (SLP(Crl.) Nos. 4927 of 2023) ***Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others***, decided on 04.09.2023.

3. Heard. Documents on record perused.

4. The question as to whether deposit of 20% of the awarded compensation amount, is mandatory while suspending the sentence, was considered by the Hon’ble Supreme Court in ***Jamboo Bhandari (supra)***, wherein it was held as under:-

“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.

8. The submission of the learned counsel appearing for the original complainant is that neither before the Sessions Court nor before the High Court, there was a plea made by the appellants that an exception may be made in these cases and the requirement of deposit or minimum 20% of the amount be dispensed with. He submits that if such a prayer was not made by the appellants, there were no reasons for the Courts to consider the said plea.

9. We disagree with the above submission. When an accused applies under Section 389 of the Cr.P.C. for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the Court has to consider whether the case falls in exception or not.

10. In these cases, both the Sessions Courts and the High Court have proceeded on the erroneous premise that deposit of minimum 20% amount is an absolute rule which does not accommodate any exception.”

In view of the law laid down by **Jamboo Bhandari (supra)**, learned Appellate Court was required to consider as to whether the present case falls within the exceptions or not. No specific reasons have been assigned while imposing the condition of deposit of 20% of the amount. The impugned order dated 18.03.2025 is, therefore, not sustainable. Present petition is disposed of with



a direction to learned Appellate Court to re-examine the case afresh, after affording an opportunity to the petitioner to address her arguments regarding exceptional circumstances warranting waiver of requirement to deposit 20% of the compensation awarded by the learned trial Court.

Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

(AARADHNA SAWHNEY)
JUDGE

15.09.2025
Nisha Yadav

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No