



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

CRM-M-65509-2025

Date of Decision : 21.11.2025

Kapotech Industries and anr.

...Petitioners

Versus

M/s BD Gupta and Bros.

...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Dheeraj Kumar, Advocate
for the petitioners.

AARADHNA SAWHNEY, J. (ORAL)

1. Challenge in the present petition is to order dated 20.11.2024 passed by learned Additional Sessions Judge, SAS Nagar, vide which, while suspending the sentence of petitioner No.2 awarded on 20.11.2024 (by learned trial Court in *Criminal Complaint No. NACT-1246-2020* titled as '*M/s B.D.Gupta and Bros. vs. Kapotech Industries and anr.*'), petitioner No.2 (appellant No.2 before the learned Additional Sessions Judge, SAS Nagar) was directed to deposit 20% of the compensation.

2. Vide judgment of conviction/sentence dated 24.10.2024 passed by learned Judicial Magistrate Ist Class, SAS Nagar, petitioner No.2 was convicted and sentenced to undergo simple imprisonment for a period of six months for commission of offence punishable under Section 138 of NI Act and was further directed to pay compensation i.e. Rs.5,00,000/- to the complainant. Thereafter, the petitioners preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge,



SAS Nagar. The learned Appellate Court vide order dated 20.11.2024, suspended the sentence of petitioner No.2 subject to deposit of 20% of the compensation amount.

3. Learned counsel for the petitioners *inter alia* contends that the learned Appellate Court failed to appreciate the facts of the case in the correct perspective. In purely mechanical manner, sentence so awarded by the learned trial Court was suspended subject to deposit of 20% of the compensation amount. Learned counsel submits that petitioner No.1, a firm and its proprietor, are facing acute financial crunch. They otherwise have a good case on merits and that if the condition so imposed while suspending the sentence is not waived off, they would suffer irreparable loss. Further as per learned counsel, the plea of petitioners that their case falls under 'Exceptional Category' was also not taken note of by learned First Appellate Court. No discussion was made on this issue. The said condition (depositing 20% of the compensation amount) being arbitrary and in violation of the law laid down by the Hon'ble Supreme Court in ***Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others, 2023 (180) SCL 373***, deserves to be set aside/modified.

4. Heard. Documents on record perused.

5. 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.”



6. 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 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 petitioners to address their arguments regarding exceptional circumstances warranting waiver of requirement to deposit 20% of the compensation awarded by the learned trial Court.

(AARADHNA SAWHNEY)
JUDGE

21.11.2025
sonia

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>