

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-63535-2024,
Date of decision: 16.01.2025

CRM-M-63535-2024

Golden Oak Real Estate Private Limited	...Petitioner
Versus	
Amsons Communication Private Limited	...Respondent
AND	

CRM-M-63541-2024

Golden Oak Real Estate Private Limited	...Petitioner
Versus	
Amsons Communication Private Limited	...Respondent
AND	

CRM-M-63542-2024

Golden Oak Real Estate Private Limited	...Petitioner
Versus	
Amsons Communication Private Limited	...Respondent
AND	

CRM-M-63543-2024

Golden Oak Real Estate Private Limited	...Petitioner
Versus	
Amsons Communication Private Limited	...Respondent
AND	

CRM-M-63544-2024

Golden Oak Real Estate Private Limited	...Petitioner
Versus	
Amsons Communication Private Limited	...Respondent
AND	

CRM-M-63580-2024

Golden Oak Real Estate Private Limited	...Petitioner
Versus	
Amsons Communication Private Limited	...Respondent
AND	

CRM-M-63940-2024

Golden Oak Real Estate Private Limited	...Petitioner
Versus	
Amsons Communication Private Limited	...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Chahat Goyal, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. This order will dispose of the afore-titled petitions having identical facts and are involving identical question of law and the parties are also same.
2. The brief facts are that petitioner was convicted and sentenced to imprisonment under Section 138 NI Act in seven criminal complaints titled M/s Amsons Communications Private Limited Vs. Golden Oak Real Estate Private Limited and another vide judgment(s) Annexure P-1 dated 05.08.2022 passed by the Court of Judicial Magistrate Ist Class, Chandigarh. Being aggrieved, the petitioner filed seven separate appeals wherein the appellate Court suspended the sentence of the petitioner subject to deposit of 20% of the compensation amount awarded, in the trial Court within next 60 days, in view of provision of Section 148 NI Act. The said orders are dated 05.09.2022 (Annexure P-2). Subsequently, petitioner filed application(s)

seeking extension of time to deposit the aforesaid amount. The appellate Court after hearing the petitioner, gave period of 90 days w.e.f. 05.09.2022, to deposit the aforesaid amount. As the petitioner failed to comply with the said order, appellate Court directed to summon the petitioner through non bailable warrants of arrest vide order Annexure P-4 dated 14.07.2023. Thereafter, on 18.10.2023, the appellate Court passed order Annexure P-5 whereby the earlier order passed regarding suspension of sentence of the petitioner was cancelled. The petitioner being aggrieved by orders Annexure P-4 and Annexure P-5 has filed the present petition(s).

3. At the outset, the counsel for the petitioner submits that he is ready to comply with and to deposit 20% of the compensation amount with the Court concerned within next 20 days from today and in the meantime, no coercive action be taken against the petitioner.

4. Undoubtedly, order(s) Annexure P-2, whereby the appellate Court suspended the sentence of petitioner, subject to deposit of 20% of the compensation awarded by the trial Court, is not under challenge in the present petition(s).

5. 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 observed that deposit of minimum 20 % compensation/fine amount is not an absolute blanket rule while considering suspension of sentence. Thus, making it clear that the provision of Section 148 NI Act is not mandatory in nature and in case, accused person can make out a ground for reduction of this percentage or exemption of deposit, the same has to be

considered by the appellate Court before directing deposit of compensation amount as a condition, while suspending the sentence.

6. In the light of the aforesaid settled position of law, the impugned orders Annexure P-4 and P-5 passed by the appellate Court whereby the said Court has initiated coercive action against the petitioner, as he failed to deposit 20% of the compensation amount, is not sustainable. Further, the counsel for the petitioner has given undertaking and assurance on behalf of the petitioner to deposit the said amount within next two weeks.

7. In light of the above, all the seven petitions are allowed and impugned order(s) Annexure P-4 dated 14.07.2023 and Annexure P-5 dated 18.10.2023 are set aside and the petitioner is permitted to deposit the aforesaid 20% of compensation amount within next two weeks, failing which all these petitions will be deemed to have been dismissed.

8. However, it is made clear that any observation made herein above is not to be construed as an expression of opinion on the merits of the case.

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

16.01.2025
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No