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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.M.C. 3413/2025, CRL.M.A. 15059-15060/2025

AKASH KUMAR .....Petitioner

Through: Mr. Faiz Imam, Advocate

versus

BIDYA .....Respondent

Through: None

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% 15.05.2025

1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 assails order dated 07th March, 2025, passed in CA No. 91/2025 titled as ***"Akash Kumar Vs Bidya"***, which is pending before the Court of Special Judge (NDPS)-01, District South-West, Dwarka Courts, New Delhi.

2. The Petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 *vide* order dated 17th January, 2025 passed by the JMFC (NI Act-03), Dwarka Courts, New Delhi. Further, by order on sentence dated 10th February, 2025, the Petitioner was directed to pay a fine of INR 20,62,000/- to the Complainant as compensation along with other interest computed thereupon @ 9% per annum

3. The Petitioner assailed the aforenoted order in appeal, wherein upon consideration of the facts and circumstances, the ASJ passed the impugned order, suspending the sentence awarded by the Trial Court and admitting the Petitioner on bail, subject to deposit of 20% of the fine amount in the form of an FDR in the name of the Principal District and Sessions Judge, South

West District, Dwarka.

4. Counsel for the Petitioner submits that the direction to deposit 20% of the fine amount is unreasonable and arbitrary. He points out that the said amount exceeds INR 5,00,000/-, which amount the Petitioner is unable to pay in light of his current financial circumstances. He states that the Petitioner has recently incurred significant expenses on account of the marriage of his sister. In light of these considerations, he prays for setting aside of the impugned order. In this regard, reliance is placed on ***Jamboo Bhandari v. Madhya Pradesh State Industrial Development Corporation Limited and Others***.[1]

5. The Court has considered the aforenoted contentions. The Supreme Court, in ***Jamboo Bhandari*** observed as follows:

> *"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."*

Indeed, the Supreme Court, in the aforementioned decision, observed that the Appellate Court is empowered to make exceptions to the imposition of the condition under Section 148 of the NI Act, however, such deviation is warranted only where the imposition would be unjust or would deprive the Appellant of the right to appeal. In the instant case, the only exceptional circumstance sought to be relied upon by the Petitioner is his financial incapacity and consequent inability to deposit the amount.

6. In the opinion of the Court, financial incapacity, by itself, cannot

[1] (2023) 10 SCC 446.

constitute sufficient ground to bypass the statutory mandate of Section 148, as the mere inability to pay the amount does not render the condition unjust, nor does it amount to a denial of the Petitioner's right to appeal. Therefore, the Petitioner's reliance on ***Jamboo Bhandari*** is misplaced, and does not entitle him to the relief sought.

7. For the foregoing reasons, the Court is not inclined to entertain the present petition.

8. Accordingly, the petition is dismissed along with pending application(s).

SANJEEV NARULA, J

MAY 15, 2025/ab