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

+ **CRL.M.C. 7105/2025**

**MR. MUHAMMAD SALIM KHAN PROPRIETOR OF A U
BROTHERS**Petitioner

Through: Mr. Amit Goyal, Mr. Jyoti Prasad
More, Mr. Shashi Kant, Mr. Sunil
Kumar, Ms. Pooja Wadhwa, Ms.
Tanu Priya Jaiswal, Advocates.

versus

**M/S MEGHALAYA STEELS LTD. THROUGH ITS GENERAL
ATTORNEY SHRI RAMKARAN SHARMA**Respondent
Through: Mr. P.C. Joshi, Advocate.

**CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA**

ORDER
08.10.2025

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CRL.M.A. 29847/2025 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

CRL.M.C. 7105/2025 & CRL.M.A. 29846/2025 (stay)

1. This is a petition under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 [“BNSS”] for quashing and setting aside the order dated 21.06.2025, passed in CA No. 92/2025, titled “*Mr. Muhammad Salim Khan, Proprietor of A.U. Brothers Vs. Meghalaya Steels Ltd., through its General Attorney Shri Ramkaran Sharma*” by the Vacation Judge, Karkardooma Courts.



2. Petitioner preferred a Criminal Appeal before the Sessions Court, assailing the order of conviction and sentence dated 25.04.2025 and 20.05.2025 respectively, having been passed by the learned JMFC in Complaint Case No. 1311/2022, titled *Meghalaya Steels Ltd., through its General Attorney Shri Ramkaran Sharma Vs. Mr. Muhammad Salim Khan, Proprietor of A.U. Brothers.*

3. The present petition has been filed by the petitioner on the limited issue and ground that the learned Vacation Judge while dealing with the Criminal Appeal against conviction for the offence under Section 138 of Negotiable Instrument Act, 1881 [**“NI Act”**] vide order dated 21.06.2025, suspended the sentence subject to deposit of 20% of the fine amount as a precondition in terms of Section 148 of NI Act, 1881.

4. It has been submitted by the learned counsel for the petitioner that learned Vacation Judge failed to take into consideration that petitioner filed an application along with the criminal appeal itself seeking waiver of deposit of compensation amount, primarily relying on the decision rendered by the Supreme Court in ***Jamboo Bhandari Vs. Madhya Pradesh State Industrial Development Corporation Limited. & Ors. (2023) 10 Supreme Court Cases 446.***

5. It is submitted that the condition stipulated under Section 148 of the NI Act is not mandatory and the same can be waived under special circumstances.

6. It has been submitted that the petitioner is a resident of Manipur, which has been severely affected by internal conflict and is presently reeling under extraordinary and unprecedented circumstances due to ongoing ethnic conflict between the Kuki and Meitei communities, resulting in



enforcement of prolonged curfews and disruption of normal public life. It is submitted that the ongoing conflicts and restrictions have severely hampered all economic activities in the region, resulting in a complete loss of livelihood for the petitioner, who is unable to arrange even the basic means of sustenance, let alone comply with the financial condition imposed by the learned Vacation Judge, and therefore vide application under Section 148 NI Act, petitioner prayed for grant of exemption from payment of compensation, but the same was not considered while passing the impugned order dated 21.06.2025.

7. Section 148 NI Act confers power upon the Appellate Court to pass an order pending appeal to direct the appellant/accused to deposit the sum which shall not be less than 20% of the fine or compensation either on an application filed by the original complainant or even on an application filed by the appellant/accused under Section 389 Cr. PC to suspend the sentence.

8. In the case of Jamboo Bhandari (*supra*), the Hon'ble Apex Court adopted the purposive interpretation of Section 148 NI Act and observed that Appellate Courts are 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 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. The Hon'ble Court made following pertinent observations in Paras No. 7 to 10, which are reproduced as below:-

“7. Therefore, when the appellate court considers the prayer under Section 389CrPC of an accused who has been convicted for offence under Section 138 NI 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 389CrPC 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.”

9. Admittedly, along with its appeal, petitioner filed an application for the waiver of condition for the deposit of amount under Section 148 NI Act before the Appellate Court. Learned Vacation Judge ought to have considered the application before passing any order of deposit of 20% of the compensation amount. Thus, the learned Vacation Judge erred in passing the impugned order without considering the application for waiver.

10. In view of the above, the impugned order dated 21.06.2025 is set aside with direction to the learned Appellate Court to consider and decide the application dated 16.06.2025 filed by the petitioner under Section 148 NI Act while deciding the question of suspension of sentence.

11. Petition accordingly stands disposed of in terms of the above order.

RAVINDER DUDEJA, J.

OCTOBER 8, 2025

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