

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (MODIFICATION OF
CONDITION/ORDER) NO. 1163 of 2026****With****R/CRIMINAL REVISION APPLICATION NO. 1164 of 2026****With****R/CRIMINAL REVISION APPLICATION NO. 1165 of 2026****With****R/CRIMINAL REVISION APPLICATION NO. 1166 of 2026****With****R/CRIMINAL REVISION APPLICATION NO. 1167 of 2026****With****R/CRIMINAL REVISION APPLICATION NO. 1168 of 2026****With****R/CRIMINAL REVISION APPLICATION NO. 1170 of 2026**

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SHARAD KISHANCHAND BIHANI PROP. OF SHARAD FABRICS**Versus****HARISHBHAI RAMKISHAN NARANG PROP. OF DURGA FINANCE & ANR.**

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Appearance:**MR MANAN SHAH for MR CR BUDDHADEV(6707) and MR HARMEET M
DESAI(18820) for the Applicant(s) No. 1****MR PRANAV DHAGAT, APP for the Respondent(s) No. 2**

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CORAM: HONOURABLE MS. JUSTICE GITA GOPI**Date : 23/04/2026****COMMON ORDER**

1. Common grievance has been raised in all the matters by learned advocate Mr. Manan Shah that the learned Appellate Court, Surat had passed an order laying down condition on the very same day i.e. 18.3.2026 in all the appeals preferred, on suspending the sentence passed by the learned Magistrate, Surat, while releasing the applicant – accused on bail of paying 80% of compensation money to the complainant and 20% to be deposited to the Government in four matters, while

had also ordered to pay total compensation amount to the complainant in other three cases.

2. The crux of the sentence with the conditions, in terms of the case, with the details of cheque and the cheque amount was summarised in the tabular form referred by Mr. Shah.

Sr No	CRRRA No.	C.C. No.	Cheque Details			Sentence / Punishment	Appeal Details	
			Cheque No.	Cheque Amount	Date		Criminal Appeal No.	Deposit Amount (20% of Fine)
1	1163/2026	8905 / 2013	444805	Rs.15,00,000	04.01.2013	Simple imprisonment for 1 year. Fine of Rs. 30,00,000/- (twice cheque amount). 80% to be paid to complainant as compensation within 30 days. 20% to be deposited with government. Default: simple imprisonment for 3 months.	287 / 2026 (20% of fine)	Rs.6,00,000
2	1164/2026	35591 / 2013	446941	Rs.15,00,000	17.01.2013	Simple imprisonment for 1 year. Fine of Rs. 30,00,000/- (twice cheque amount). 80% to be paid to complainant as compensation within 30 days. 20% to be deposited with government. Default: simple imprisonment for 3 months.	289 / 2026 (20% of fine)	Rs. 6,00,000
3	1165/2026	35588 / 2013	449504	Rs.15,00,000	18.01.2013	Simple imprisonment for 1 year. Fine of Rs. 30,00,000/- (twice cheque amount). 80% to be paid to complainant as compensation within 30 days. 20% to be deposited with government. Default: simple imprisonment for 3 months.	291 / 2026 (20% of fine)	Rs. 6,00,000
4	1166/2026	8908 / 2013	764061 764059	Rs.3,00,000 Rs.3,00,000	02.01.2013 02.01.2013	Simple imprisonment for 1 year. Fine of Rs. 9,90,000/- to be paid to complainant as compensation within 30 days. Default: simple imprisonment for 3 months.	286 / 2026 (20% of fine)	Rs. 1,98,000
5	1167/2026	35587 / 2013	451471	Rs.15,00,000	16.01.2013	Simple imprisonment for 1 year. Fine of Rs. 30,00,000/- (twice cheque amount). 80% to be paid to complainant as compensation within 30 days. 20% to be deposited with government. Default: simple imprisonment for 3 months.	285 / 2026 (20% of fine)	Rs. 6,00,000
6	1168/2026	8909 / 2013	764067 764066	Rs 3,00,000 Rs.3,00,000	01.01.2013 01.01.2013	Simple imprisonment for 1 year. Fine of Rs. 9,90,000/- to be paid to complainant as compensation within 30 days. Default: simple imprisonment for 3 months.	288 / 2026 (20% of fine)	Rs. 1,98,000
7	1170/2026	8907 / 2013	764062 764060	Rs.3,00,000 Rs.3,00,000	03.01.2013 03.01.2013	Simple imprisonment for 1 year. Fine of Rs. 9,90,000/- to be paid to complainant as compensation within 30 days. Default: simple imprisonment for 3 months.	290 / 2026 (20% of fine)	Rs. 1,98,000

2. Advocate Mr. Shah, relying upon the judgment in the case of **Jamboo Bhandari v. Madhya Pradesh State Industrial Development Corporation Limited & Ors.** reported in **(2023) 10 SCC 446**, has submitted that the learned Appellate Court while considering the provision under Section 148 of the Negotiable Instruments Act, 1881 (hereinafter referred to as "the NI Act") was required to consider the observations in the case of **Surinder Singh Deswal @ Colonel S.S. Deswal & Ors. v. Virender Gandhi**, **(2019) 11 SC 341**, where the Hon'ble Apex Court has explained the meaning of expression "may" under sub-section (1) of Section 148 of the NI Act and thus, submitted that the Appellate Court was required to examine the facts of the case for the satisfaction of the Court to consider whether imposing such condition of the compensation/fine amount would be unjust or imposition of that condition would have deprived the right of the appeal of the appellant, as the order ultimately would become very onerous and the appellant – accused's right to proceed with the appeal would get frustrated as his financial capacity would not permit him to deposit such a huge amount in one go, as ordered by the learned Appellate Court.

3. Having heard the learned advocate Mr. Shah, the law laid down in regard to the provision of Section 148 NI Act would be required to be appreciated by referring to the case laws.
4. In the case of **Surinder Singh Deswal** (supra), the amended provision of Section 148 of NI Act was dealt with in following terms:-

"8. Now so far as the submission on behalf of the appellants that even considering the language used in Section 148 of the NI Act as amended, the appellate court "may" order the appellant to deposit such sum which shall be a minimum of 20% of the fine or compensation awarded by the trial court and the word used is not "shall" and therefore the discretion is vested with the first appellate court has construed it as mandatory, which according to the learned Senior Advocate for the appellants would be contrary to the provisions of Section 148 of the NI Act as amended is concerned, considering the amended Section 148 of the NI Act as a whole to be read with the Statement of Objects and Reasons of the amending Section 148 of the NI Act, the word used is "may", it is generally to be construed as a "rule" or "shall" and not to direct to deposit by the appellate court is an exception for which special reasons are to be assigned.

Therefore amended Section 148 of the 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 the application file by the appellant-accused under Section 389 CrPC to suspend the sentence. The

aforesaid is required to be construed considering the fact that as per the amended Section 148 of the NI Act, a minimum of 20% of the fine or compensation awarded by the trial court is directed to be deposited and that such amount is to be deposited within a period of 60 days from the date of the order, or within such further period not exceeding 30 days as may be directed by the appellate court for sufficient cause shown by the appellant.

Therefore, if amended Section 148 of the NI Act is purposively interpreted in Section 148 of the NI Act, but also Section 138 of the NI Act. The Negotiable Instruments Act has been amended from time to time so as to provide, inter alia, speedy disposal of cases relating to the offence of the dishonour of cheques. So as to see that due to delay tactics by the unscrupulous drawers of the dishonoured cheques due to easy filing of the appeals and obtaining stay in the proceedings, an injustice was caused to the payee of a dishonoured cheque, who has to spend considerable time and resources in the court proceedings to realise the value of the cheque and having observed that such delay has compromised the sanctity of the cheque transactions. Parliament has thought it fit to amend Section 148 of the NI Act. Therefore, such a purposive interpretation would be in furtherance of the Objects and Reasons of the amendment in Section 148 of the NI Act and also Section 138 of the NI Act."

5. In the case of **Jamboo Bhandari** (supra), after noting the observations in **Surinder Singh Deswal** (supra), it was observed by the Hon'ble Apex Court in Paragraph 7 as under:-

"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."

6. The Hon'ble Apex Court has noted that when a prayer is made under Section 389 of Cr.P.C. before the learned Appellate Court, it would be open for the Court to consider whether it is an exceptional case which warrants grant of suspension of sentence without imposing condition of deposit of 20% of the fine/compensation amount by expressing the reasons for non-imposition of such condition. Thus, it has been specified that it is not mandatory for the learned Appellate Court to pass an order for the compulsory deposit of 20% of the cheque amount in all the cases. The Appellate Court does possess a limited discretion to be exercised in exceptional circumstances to exempt an appellant from making the deposit contemplated under Section 148 of the NI Act.
7. In the decision of **Rakesh Ranjan Shrivastava v. State of Jharkhand & Anr. (2024) 4 SCC 419**, the Hon'ble Apex Court had dealt with the provision of Section 148 of the N.I. Act and

the power which has been entrusted to the learned Appellate Court. The Hon'ble Apex Court thus observed in Paragraph 20, which is as under:-

"20. Even sub-section (1) of Section 148 uses the word "may". In the case of Surinder Singh Deswal v. Virender Gandhi 1, this Court, after considering the provisions of Section 148, held that the word "may" used therein will have to be generally construed as "rule" or "shall". It was further observed that when the Appellate Court decides not to direct the deposit by the accused, it must record the reasons. After considering the said decision in the case of Surinder Singh Deswal¹, this Court, in the case of Jamboo Bhandari v. Madhya Pradesh State Industrial Development Corporation Limited & Ors., in paragraph 6, held thus:

"6. What is held by this Court is that a purposive interpretation should be made of Section 148 NI Act. Hence, normally, the 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."

(Emphasis added)

8. In the present, the matter before the learned Magistrate by the finance Company was of providing financial loan to the applicant – accused. The observation made by the learned Trial Court Judge while referring to the affidavit of the complainant was that the accused often used to take facility

of cheque discount for the fund and that it was business relations with the accused. The accused had further stated in the affidavit that the accused whenever was in need of money approached the complainant firm and by depositing the cheque of the account, received the amount from the complainant's firm and against that paid legal commission to the complainant and in that respect for providing the finance, the accused had signed the legal documents.

9. The learned Appellate Court Judge was required to observe the facts of the case and the details as per the income-tax details and other accounts of the complainant if at all produced during the trial reflected in the judgment to consider the fact of business transactions and the deals between the parties. When the learned Appellate Judge had deemed it fit to admit the appeal, then, as laid down in the case of **Jamboo Bhandari** (supra) and **Surinder Singh Deswal** (supra), the facts recorded and the admission of the complainant along with the defence pleaded was to be taken into consideration.
10. In the case of **Jamboo Bhandari** (supra), by considering the interpretation as was laid down in the case of **Surinder Singh Deswal** (supra), the Hon'ble Supreme Court has directed to give a purposive interpretation for Section 148 of the NI Act.

It was held that when the learned Appellate Court is satisfied that condition of deposit of 20% would be unjust and imposition of such condition would amount to deprivation of right of appeal of the appellant, exception can be made with the reasons specifically recorded, when the learned Appellate Court considers prayer under Section 389 of the Cr.P.C. of the accused, who has been convicted for the offence under Section 138 of the NI Act. It would be always open to the learned Appellate Court to consider suspension of sentence without imposing condition of deposit of 20% of the fine/compensation amount.

11. Having considered all the cases in totality, and when the order was passed by the learned Appellate Judge on the very same day, learned Appellate Court was having the clear picture of the case of the appellant before it. The imposition of the condition ordering 80% to be paid to the complainant and to deposit 20% amount with the Government and in default to undergo simple imprisonment for three months would serve no purpose, would ultimately give no scope to the accused who was before the learned Appellate Court agitating the reasons of the Trial Court while convicting him. The learned Appellate Court was required to deal with the provision of

Section 148 of the NI Act in a purposive manner considering financial status of the accused and that of the complainant who is already in the business of financial transactions, while the complainant is in a defence challenging the said transactions.

12. In view of the observations in the cases of **Jamboo Bhandari** (supra), **Surinder Singh Deswal @ Colonel S.S. Deswal** (supra) and **Rakesh Ranjan Shrivastava** (supra), this Court deems it appropriate to modify the condition by giving a purposeful interpretation of Section 148 of the NI Act, without overburdening the appellant - accused and without getting his right of appeal to be scuttled restricting the ultimate limit of 20% to the cheque amount and not the compensation / fine ordered.
13. Thus, the condition laid down in all the matters before the Appellate Court is modified directing the applicant – accused to deposit 20% of the cheque amount before the learned Appellate Court on or before 8.6.2026.
14. Accordingly, all the applications are disposed of. Direct service is permitted.

(GITA GOPI,J)

Maulik

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MAULIK RAJESH PANDYA(HC00205), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 24/04/2026 17:38:27