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CRM-M-13267-2026

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2026 PHHC 037073



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-13267-2026

Date of decision: 11.03.2026

SUDHIR KUMAR

....Petitioner

Versus

ASHOK YADAV

....Respondent

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Rakesh Dhiman, Advocate for the petitioner.

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RUPINDERJIT CHAHAL, J. (ORAL)

1. Instant petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed for quashing/setting aside of order dated 09.01.2026 (Annexure P-4) passed by the Court of learned Additional Sessions Judge, Gurugram in case bearing CRA No.37/2026 titled as '*Sudhir Kumar vs. Ashok Yadav*' filed against the judgment of conviction and order of sentence dated 09.12.2025 passed by learned Judicial Magistrate Ist Class, Gurugram in CIS NACT-51061-2019, whereby, the sentence of the petitioner was suspended conditionally by imposing a condition to deposit 20% of the compensation without considering whether the case of the petitioner falls within exception or not.

2. Vide judgment of conviction and order on quantum of sentence dated 09.12.2025 passed by learned Judicial Magistrate Ist Class, Gurugram the petitioner was convicted and sentenced to undergo simple imprisonment for a period of one year for commission of offence punishable under Section 138 of Negotiable Instruments Act and was further directed to pay compensation to the tune of Rs.64,00,000/- (Rs.40,00,000/- cheque amount

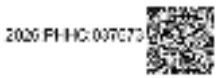


and Rs.24,00,000/- interest and other charges) to the complainant within a period of two months. Thereafter, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Gurugram. The learned Appellate Court vide order dated 09.01.2026, suspended the sentence of the petitioner subject to depositing 20% of the compensation amount before the date fixed.

3. Learned counsel for the petitioner *inter alia* contends that the learned Appellate Court failed to appreciate the facts in the right perspective and imposed the condition to deposit 20% of the compensation amount and such a condition is illegal, arbitrary and in violation of the law as laid down by the Hon'ble Supreme Court in ***Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others 2023(1) SCC 446***. Speaking through Justice Abhay S. Oka, it has been held 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.

7. Therefore, when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an petitioner 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 4 conclusion must be recorded.”

4. Having heard learned counsel for the petitioner and after perusing the judgment passed in ***Jamboo Bhandari (supra)***, the Appellate Court was required to consider whether the case of the petitioner is an exceptional case which warrants grant of suspension of sentence without imposing the condition of deposit of 20% fine/compensation amount. The impugned order dated 09.01.2026 (Annexure P-4) is hereby set aside to the extent of imposing the condition of depositing 20% of compensation amount. The learned Appellate Court is directed to re-examine the case after granting an opportunity to the petitioner to make submissions regarding the exceptional circumstances and decide whether it is an appropriate case that warrants waiver of the requirement of deposit of 20% of the compensation awarded by learned trial Court.
5. The matter is remanded back to the learned Appellate Court with a direction to decide the matter afresh in accordance with law in the light of judgment passed by the Hon'ble Supreme Court in ***Jamboo Bhandari's case (supra)***.
7. The petition is disposed of accordingly.

11.03.2026
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(RUPINDERJIT CHAHAL)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |