IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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2026:PHHC:085764

CRR-1356-2023 (O&M)
CRR-1334-2023 (O&M) and
CRR-1431-2023 (O&M)
Reserved on: 27.04.2026.
Date of decision: 29.05.2026.
Uploaded on: 30.05.2026.

Whether only operative part of the judgment is pronounced or the full judgment is pronounced.	**Operative part/full judgment**

(1)

CRR-1356-2023 (O&M)

SUMIT KUMAR BINDAL AND ANOTHER
...Petitioner(s)

VERSUS

M/S CHOTTU RAM SUMER SINGH
...Respondent(s)

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(2)

CRR-1334-2023 (O&M)

SUMIT KUMAR BINDAL AND ANOTHER
...Petitioner(s)

VERSUS

M/S RAJA AND COMPANY
...Respondent(s)

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(3)

CRR-1431-2023 (O&M)

SUMIT KUMAR BINDAL AND ANOTHER
...Petitioner(s)

VERSUS

M/S CHOTTU RAM SUMER SINGH
...Respondent(s)

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CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT: Mr. Shreenath A. Khemka, Advocate,
for the petitioner(s).

Ms. Veena Hooda, Advocate,
for the respondent in CRR-1356-2023 and CRR-1431-2023.

Ms. Jayantika Dhull, Advocate,
for the respondent in CRR-1334-2023.

VINOD S. BHARDWAJ, J.

1. Challenging the order dated 03.04.2023, passed by the Additional Sessions Judge, Hisar, in three (03) different criminal appeals preferred by the petitioner(s) herein, directing the petitioner(s) to deposit 20% of the compensation amount as a condition for suspension of sentence against conviction in cheque bounce cases, the present revision petitions have been filed.

2. The details of the cases are given as under: -

CRR Nos.	Title	Complaint case under Section 138 of the Negotiable Instruments Act, 1881	Criminal Appeal Nos.	Date of Impugned order
CRR-1356-2023	Sumit Kumar Bindal and another Vs. M/S Chottu Ram Sumer Singh	CIS NO.191/NACT/2016 Chottu Ram Sumer Singh Vs. Shri Shyamji Agrico Exports Pvt. Ltd. and others Judgment of conviction dated 01.03.2023 and order of Sentence dated 04.03.2023.	CIS No.CRA/172/2023 Shri Shyamji Agrico Exports Pvt. Ltd. and others Vs. Chottu Ram Sumer Singh .	03.04.2023

CRR-1334-2023	Sumit Kumar Bindal and another Vs. M/S Raja Ram and Company	CIS NO.74/NACT/2016 Raja Ram and Company Vs. Shri Shyamji Agrico Exports Pvt. Ltd. and others Judgment of conviction dated 01.03.2023 and order of Sentence dated 04.03.2023.	CIS No.CRA/168/2023 Shri Shyamji Agrico Exports Pvt. Ltd. and others Vs. M/s Raja Ram and company .	03.04.2023
CRR-1431-2023	Sumit Kumar Bindal and another Vs. M/S Chottu Ram Sumer Singh	CIS NO.216/NACT/2016 Chottu Ram Sumer Singh Vs. Shri Shyamji Agrico Exports Pvt. Ltd. and others Judgment of conviction dated 01.03.2023 and order of Sentence dated 04.03.2023.	CIS No.CRA/169/2023 Shri Shyamji Agrico Exports Pvt. Ltd. and others Vs. Chottu Ram Sumer Singh .	03.04.2023

FACTS

3. For the facility of reference, the brief facts are however extracted from CRR No.1356-2023 titled as '**SUMIT KUMAR BINDAL AND ANOTHER** Vs. **M/S CHOTTU RAM SUMER SINGH**'.

4. The petitioner(s) herein stood convicted for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 vide judgment of conviction dated 01.03.2023 passed in Criminal

Complaint bearing No. CIS/191/NACT/2016, instituted on 11.04.2016. Vide the order of sentence passed on 04.03.2023, the petitioner(s) were sentenced to undergo simple imprisonment for a period of 01 year and 06 months. In addition thereto, the petitioner(s) were also directed to pay compensation amounting to Rs.40,00,000/- (Rupees Forty Lakhs only) to the complainant.

5. The case set up by the respondent-complainant is that the petitioners are responsible and authorized persons of Shri Shyami Agrico Exports. The complainant being involved in sale/purchase of agricultural produce, he purchases different quantities of stocks from different sellers, on the asking of and on direction of the petitioners. Total paddy dispatched for the financial year 2014-15 was Rs.4.16 Crores approx. Till February, 2015, only a sum of Rs.1.77 crores was released followed by an amount of Rs.67 Lakhs. Towards discharge of his liability, the accused Shri Shyami Agrico Exports issued Cheque bearing No.185658 dated 30.10.2015, for a sum of Rs.25 lakhs. The cheque was however dishonoured for want of sufficient funds, vide memo dated 29.01.2016.

6. A statutory legal notice was accordingly sent. Since payment was not made, hence, the complaint was filed for offence under Section 138 of the Negotiable Instruments Act, 1881. The parties were summoned by the Illaqa Magistrate vide order dated 26.04.2016.

7. On securing the presence of the accused-petitioners, a notice of accusations was served vide order dated 03.11.2016 to which the petitioners pleaded not guilty and claimed trial.

8. The parties led their respective evidence and on consideration thereof,

the Judicial Magistrate First Class, convicted the petitioners vide judgment dated 01.03.2023 and later sentenced them.

9. Aggrieved thereof, the petitioners preferred an appeal before the Additional Sessions Judge Hisar. The said appeal was admitted on 03.04.2023 and the sentence of the petitioners was suspended subject to deposit of 20% of the compensation amount, within a period of 02 months. It was further ordered that if the deposit of compensation under Section 148 of the Negotiable Instruments Act, 1881, is not done, the bail shall be deemed to be cancelled.

10. Aggrieved of the said conditional order, the present revision petitions have been preferred.

ARGUMENTS BY PETITIONERS

11. Learned counsel appearing on behalf of the petitioners contends that the order passed by the Appellate Court making suspension of sentence conditional and subject to deposit of 20% of the compensation amount is wholly illegal and unsustainable in law. It is submitted that the power to suspend sentence during pendency of appeal is governed by the provisions contained under Section 389 of the Code of Criminal Procedure, 1973 and that such power is required to be exercised independently and as per settled judicial principles governing suspension of sentence.

12. Learned counsel further contends that the provisions of Section 148 of the Negotiable Instruments Act, 1881, which empower the Appellate Court to direct deposit of a certain percentage of compensation/fine during pendency of appeal, cannot be construed as creating a mandatory

pre-condition for grant of suspension of sentence. It is submitted that the statutory discretion contemplated under Section 148 of the Act cannot override or curtail the substantive power vested in the Appellate Court under Section 389 Cr.P.C. It is thus argued that by linking the suspension of sentence of the petitioners to compulsory deposit of 20% of the compensation amount, the Appellate Court has effectively treated Section 148 of the Negotiable Instruments Act as mandatory in nature and as an indispensable prerequisite for suspension of sentence, thereby rendering the impugned order legally unsustainable and liable to be set aside.

13. It is further argued on behalf of the petitioners that even assuming the applicability of Section 148 of the Negotiable Instruments Act, 1881, for the sake of arguments, the liability thereunder is enforceable only against the "drawer" of the cheque. Learned counsel submits that in the present case, the cheque in question had been issued on behalf of M/s Shyami Agrico Exports Private Limited and the petitioners had merely appended their signatures thereto in their capacity as Directors/authorized signatories of the Company. The petitioners, therefore, cannot in law be construed as the "drawers" of the cheque within the scope of the Negotiable Instruments Act, 1881 and only the juristic entity i.e. the Company constitutes the actual drawer of the cheque.

14. Learned counsel thus submits that the statutory liability envisaged under Section 148 of the Negotiable Instruments Act, 1881, insofar as it relates to deposit of compensation during pendency of appeal, could

at best be fastened only upon the Company, in an event of an appeal preferred by the Company itself and not upon the signatures/Directors merely because they had signed the cheque in a representative capacity.

15. In support of the aforesaid contention, learned counsel for the petitioners has also placed reliance upon certain judicial precedents interpreting the expression "drawer" under the Negotiable Instruments Act, which shall be adverted to and examined in the subsequent part of this judgment.

16. Learned counsel appearing on behalf of the respondent-complainant contends that Section 148 of the Negotiable Instruments Act, 1881 empowers the Appellate Court to direct deposit of a minimum percentage of the compensation or fine amount during the pendency of an appeal arising out of conviction under Section 138 of the Act. It is submitted that the object underlying insertion of Section 148 of the Negotiable Instruments Act is to ensure credibility of commercial transactions and also to safeguard the interests of the complainant during the pendency of appellate proceedings.

17. The judicial precedents relied upon by the counsel for the petitioner-accused are as under:

a. ***Shri Gurudatta Sugars Marketing Pvt. Ltd. Vs. Prithviraj Sayajirao Deshmukh and others, in SLP (Crl.) No.8849-8850 of 2023, decided on 24.07.2024.*** The relevant extract reads thus:

15.4. Interpretation of the Section 143-A and the legislative intent Moreover, the High Court highlighted the principle of statutory interpretation, particularly in relation to Sections 143A and 148 of the NI Act, which are under consideration. It discussed the *dichotomy between interpreting statutes based on their plain language versus applying purposive construction. According to the Court, when the statutory language is clear and unambiguous, it speaks for itself, and there is no need for further interpretation. The natural and ordinary meaning of words should prevail unless the legal context necessitates a different interpretation to align with the legislative intent or to avoid absurd outcomes.*

15.4.1. The Court further elucidated that legislative intent should guide the interpretation of statutes, with all parts of a statute considered together to discern the overall purpose. It stressed that words and phrases within a statute must be construed in context, taking into account the legislative objectives and the broader framework of the law. This holistic approach ensures that statutory interpretation remains faithful to the lawmakers' intentions and avoids inconsistencies or injustices that may arise from a literal reading of isolated provisions.

15.4.2. The High Court emphasized that Section 143A should be interpreted plainly, without resorting to other rules of interpretation. It asserted that the term 'drawer' in Section 143A has a clear and unambiguous meaning, referring specifically to the person who issues the cheque. Referring to the Statement of Objects and Purposes of the Negotiable Instruments (Amendment) Act, 2018, the High Court noted that the purpose of Section 143A is to provide interim relief to payees of dishonoured cheques by imposing liability on the drawer. This, according to the High Court, aligns with the legislative intent to curb frivolous litigations and expedite resolution of cheque dishonour cases.

15.4.3. The High Court rejected the inclusion of authorized signatories within the definition of 'drawer'. It pointed out that *the legislature's choice of words in Section 143A specifically targets the drawer of the cheque, whether an individual or a company, and does not extend liability to authorized signatories. Drawing from established legal precedents, the High Court underscored that the term 'drawer' carries a specific legal meaning within the NI Act. It highlighted the cases where Courts consistently interpreted 'drawer' to refer strictly to the issuer of the cheque, reinforcing its decision to uphold this interpretation. The High Court relied on the following judgments to emphasise on the literal interpretation warranted in the present case: i. Nazir Ahmad v. King Emperor4 ii. Central Bank of India v. Ravindra5 iii. Noor Mohammed v. Khurram Pasha6*

15.4.4. Contextually, the High Court stressed upon the finding that 'drawer' within the framework of the NI Act consistently refers to the party issuing the cheque. It dismissed the arguments seeking to expand this definition to include authorized signatories, citing the need for consistency in statutory interpretation.

15.4.5. The High Court also invoked principles of company law to support its interpretation. It affirms the separate legal identity of a company and its authorized signatories under the Companies Act, which prevents extending liability to signatories under Section 143A.

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28. The High Court's interpretation of Section 7 of the NI Act accurately identified the "drawer" as the individual who issues the cheque. This interpretation is fundamental to understanding the obligations and liabilities under Section 138 of the NI Act, which makes it clear that the drawer must ensure sufficient funds in their account at the time the cheque is presented. The appellants' argument that directors or other individuals should *also be liable under Section 143A misinterprets the statutory language and intent. The primary liability, as correctly observed by the High Court, rests on the drawer, emphasizing the drawer's responsibility for maintaining sufficient funds.*

29. The general rule against vicarious liability in criminal law underscores that individuals are not typically held criminally liable for acts committed by others unless specific statutory provisions extend such liability. Section 141 of the NI Act is one such provision, extending liability to the company's officers for the dishonour of a cheque. The appellants' attempt to extend this principle to Section 143A, to hold directors or other individuals personally liable for interim compensation, is unfounded. The High Court rightly emphasized that liability under Section 141 arises from the conduct or omission of the individual involved, not merely their position within the company.

30. The distinction between legal entities and individuals acting as authorized signatories is crucial. Authorized signatories act on behalf of the company but do not assume the company's legal identity. This principle, fundamental to corporate law, ensures that while authorized signatories can bind the company through their actions, they do not merge their legal status with that of the company. This distinction supports the High Court's interpretation that the drawer under Section 143A refers specifically to the issuer of the cheque, not the authorized signatories.

31. The principle of statutory interpretation, particularly in relation to Sections 143A and 148, was also correctly applied by the High Court. The Court emphasized that when statutory language is clear and unambiguous, it should be given its natural and ordinary meaning. The legislative intent, as discerned from the plain language of the statute, aims to hold the drawer *accountable. The appellants' argument for a broader interpretation to include authorized signatories under Section 143A contradicts this principle and would lead to an unjust extension of liability not supported by the statutory text.*

32. The High Court's reliance on established legal precedents further reinforces its interpretation. Judicial precedents relied upon in the impugned judgment underscore the need for a literal interpretation of the statutory provisions. These precedents support the High Court's decision to limit the definition of 'drawer' to the issuer of the cheque, excluding authorized signatories.

33. The appellants' reliance on the judgment in Aneeta Hada (Supra),11 is misplaced and out of context. While this case underscored the necessity of involving the company as an accused to maintain a prosecution under Section 141, it does not support the extension of liability to authorized signatories under Section 143A. The judgment nowhere lays down that directors or authorised signatories would come under the ambit of 'drawer' for the purposes of Section 143A. The appellants' interpretation conflates the roles of authorized signatories and drawers, which are distinct under the NI Act. Appellants have relied upon a single paragraph, which does not form part of the ratio therein, to substantiate their argument. But in this relied upon paragraph, the Court only made an observation that the authorised signatory becomes a drawer for the company, for the limited purpose of extending the criminal liability as per Section 141.

b. ***Prakash Vasant Ajgoankar and others Vs. The State of NCT of Delhi and another, passed in Crl. Rev. Petition No.285 of 2021 and CRL. M.A. No.14618/2021*** along with other petitions on **16.04.2024**. The relevant extract reads thus: -

17. A reading of the above would show that the Supreme Court has already clarified that the exercise of power under Section 143A(1) of the NI Act is "discretionary". It has also laid down the broad parameters for exercising the discretion under the said provision.

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22. What is also relevant is that Section 143A of the NI Act empowers the Court to pass a direction for payment of interim compensation only against the "drawer of the cheque". In the present case, admittedly, the drawer of the cheques is the company and not the petitioners. The petitioners have been arrayed as accused invoking Section 141 of the NI Act.

23. Section 141 of the NI Act contains a deeming provision wherein, though offence under Section 138 of the NI Act is committed by a company, the persons mentioned in the said Section are deemed to be guilty of that offence and are liable to be proceeded against and punished accordingly. Section 141 of the NI Act is quoted herein below:

"141. Offences by companies.--(1) If the person committing an offence under section 138 is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub- section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence:

Provided further that where a person is nominated as a Director of a company by virtue of his holding any office or employment in the Central Government or State Government or a financial corporation owned or controlled by the Central Government or *the State Government, as the case may be, he shall not be liable for prosecution under this Chapter.*

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purposes of this section, --

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm."

24. The above provision is not intended to make such persons "drawer" of the cheque. In Anil Hada v. Indian Acrylic Ltd., (2000) 1 SCC 1, the Supreme Court clarified that the offender in Section 138 of the NI Act is the drawer of the cheque, and that such drawer alone would have been the offender thereunder if the Act did not contain other provisions; it is because of the Section 141 of the NI Act that penal liability under Section 138 of the NI Act is cast on other persons connected with the company. In N. Harihara Krishna v. J. Thomans, (2018) 13 SCC 663, the Supreme Court clarified that person signing a cheque on behalf of the company does not become „drawer of the cheque".

25. It is to be noted that Section 143A of the NI Act, though inserted post the judgment of the Supreme Court in Anil Hada (supra) and N. Harihara Krishana (supra), still makes only the "drawer of the cheque", and not the other persons, who may be deemed to have committed the offence under Section 138 of the NI Act due to Section 141 of the NI Act, liable to pay the interim compensation. It is not for this Court to read into Section 143A of the NI Act, the deeming provision of Section

141 of the NI Act. If that was the intent of the Legislature, Section 143A of the NI Act would have expressly stipulated the same.

26. A learned Single Judge of the High Court of Judicature at Bombay in Lyka Labs Ltd. & Anr. v. State of Maharashtra & Anr, 2023 SCC OnLine Bom 560, rightly so, also has held that the power to direct interim compensation cannot be traced under Section 141 of the NI Act in addition to Section 143A of the NI Act.

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28. In view of the above discussion, the Impugned Orders, having been premised on incorrect appreciation of law and having ignored vital and relevant considerations for passing an order under Section 143A of the Act, cannot be sustained.

c. ***Lyka Labs Limited and another Vs. State of Maharashtra and another, Criminal Appeal No.886-2022, decided on 08.03.2023.***

The relevant extract reads thus: -

"48. In N. Harihara (supra), the Apex Court was considering a case where the cheque was drawn by a private company and signed by the appellant in his capacity as the director of a company. On behalf of the appellant (authorized signatory), it was submitted that the appellant being a signatory in his capacity as a director of the company, would only be vicariously liable for the offence committed by the company. Relying on the judgment in the case of Aneeta Hada (supra), it was submitted that prosecution against the appellant (signatory) could not be successfully maintained without prosecuting the company. The Apex Court wp4128-2021 & connected-Final.doc holds that the offence under section 138 of the Act is capable of being committed only by the drawer of the cheque. Commenting on a finding recorded by the High Court in the said case that the revision filed by the authorized signatory was not maintainable

as the company did not choose to challenge the Trial Court's order, it was observed that the High Court failed to appreciate that the liability of the appellant (signatory) is only statutory because of his legal status as the director of the company. It is held that every person signing a cheque on behalf of the company on whose account a cheque is drawn does not become a drawer of the cheque. Such a signatory is only a person duly authorized to sign the cheque on behalf of the company/drawer of the cheque.

49. Reading paragraphs 21 and 22 of the judgment in N. Harihara (supra), it is clear that the subsequent bench of the Apex Court, after noticing and relying on Aneeta Hada (supra), has observed that every person signing a cheque on behalf of a company on whose account a cheque is drawn does not become the drawer of the cheque and such signatory is only a person duly authorized to sign the cheque on behalf of the company/drawer of the cheque, the Apex Court has made these observations after noticing and relying on Aneeta Hada (supra) would be binding on this Court. Therefore respondents' submission of including "authorized signatory" within the expression "drawer" under sections 143A and 148 of the Negotiable Instruments Act, 1881 cannot be accepted.

50. Having held that the expression "drawer" in section 143A wp4128-2021 & connected-Final.doc does not include the authorized signatory of a company, amended section 148 needs to be interpreted accordingly. The plain language of section 148 makes it clear that the Appellate Court is granted the power to direct deposit of a minimum sum of 20% of the fine or compensation awarded by the Trial Court "in an appeal by the drawer". Section 148 emphasizes such power being conferred only in an appeal by the 'drawer'. As already held in the earlier part of the judgment that the 'drawer' does not include an *'authorized signatory' in the case of a company or legal person, section 148 needs to be interpreted to mean that such power to direct compensation is conferred on the Appellate Court only in an appeal filed by the drawer against the conviction under section 138 of the Act. Proviso to section 148 clarifies that such payment shall be in addition to the amount payable under section 143A. The expression "drawer" under section 143A does not include the authorized signatory of a company; therefore, the language of the proviso to section 148 lends support to the interpretation that such power is available only in an appeal filed by the "drawer". It needs to be clarified that section 148 starts with the non-obstante clause having an overriding effect on the provisions under the Code of Criminal Procedure, 1973.*

52 For the reasons stated above questions framed above are answered as below:-

(i) The signatory of the cheque, authorized by the "Company", is not the drawer in terms of section 143A of the NI Act and cannot be directed to pay interim compensation under section 143A.

(ii) In an appeal under section 148 of NI Act filed by persons other than "drawer" against the conviction under section 138 of the NI Act, a deposit of a minimum sum of 20% of the fine or compensation is not necessary.

However, in an appeal filed by persons other than "drawer" against the conviction under section 138 of the NI Act such power to direct deposit of compensation is available with the Appellate Court while suspending sentence under section 389 of code of criminal procedure.

18. Learned counsel for the petitioner relies upon the position in law as later expounded in the judgment of ***Shri Gurudatta Sugars Marketing Pvt.***

Ltd. Vs. Prithviraj Sayajirao Deshmukh and others, in SLP (Crl.) No.8849-8850 of 2023, decided on 24.07.2024 wherein the Hon'ble Supreme Court interpreted the expression "drawer", as occurring in Section 143-A of the Negotiable Instruments Act, 1881, to mean the Company itself and not the authorised signatory or Director thereof who had signed the cheque on behalf of the Company.

19. The specific argument is that the expression "drawer" as used in Section 148 of the Negotiable Instruments Act, 1881 is liable to receive the same interpretation as used in Section 143-A, particularly when both Sections 143-A and 148 form part of the same statutory scheme and are intended to achieve a common legislative object. Both the provisions were introduced with the object of discouraging frivolous and dilatory litigation under Section 138 of the Act and to ensure that the complainant receives some degree of financial relief during the pendency of criminal proceedings.

20. Learned counsel has argued that once the Hon'ble Supreme Court has authoritatively interpreted the term "drawer" under Section 143-A to mean the juristic entity i.e. the Company, the same interpretation must necessarily extend to Section 148 as well, since the legislature has consciously used the same expression in both provisions without any distinction. According to learned counsel, the petitioners, having merely signed the cheque in their representative capacity as Directors/authorized signatories of the Company, cannot independently be treated as "drawers" so as to saddle them personally with the statutory obligation of pre-deposit under Section 148 of the Act.

21. It is further contended that the provisions of Section 148 of the Negotiable Instruments Act and Section 389 Cr.P.C. operate in distinct and independent fields. Learned counsel submits that Section 148 merely confers a discretionary power upon the Appellate Court to direct deposit of a certain percentage of compensation during pendency of appeal, whereas suspension of sentence is governed independently by Section 389 Cr.P.C. on settled judicial principles relating to suspension of conviction and sentence.

22. According to learned counsel, the Appellate Court has erroneously conflated the two provisions by treating compliance of Section 148 as a mandatory pre-condition for suspension of sentence. It is argued that imposing the condition of statutory deposit as an inseparable component of relief under Section 389 Cr.P.C. effectively renders Section 148 mandatory in all cases and converts the statutory discretion into an inflexible prerequisite for grant of suspension of sentence, which is contrary to the legislative intent and settled principles of criminal jurisprudence.

23. It is thus submitted that both the provisions are required to be examined independently and enforced in their respective spheres and that suspension of sentence cannot be mechanically denied or conditioned solely on the basis of non-deposit under Section 148 of the Negotiable Instruments Act, 1881.

ARGUMENTS BY RESPONDENT

24. Learned counsel appearing on behalf of the respondent-complainant contends that it is undisputed that the petitioners were functioning as

Directors/Additional Directors of M/s Shyami Agrico Exports Private Limited and that the cheque in question had been issued and signed by them for and on behalf of the said Company in discharge of its financial liability.

25. It is further submitted that the cheque in question admittedly was dishonoured on account of "paucity of funds", which resulted in the conviction of the petitioners under Section 138 of the Negotiable Instruments Act, 1881.

26. Learned counsel appearing on behalf of the respondent-complainant, on the other hand, contends that the direction regarding pre-deposit of 20% of the compensation amount has been rightly imposed by the Appellate Court in exercise of powers conferred under Section 148 of the Negotiable Instruments Act, 1881. It is submitted that the said provision specifically empowers the Appellate Court to direct deposit some percentage of the compensation awarded by the Trial Court, during pendency of the appeal and that the impugned direction has been passed strictly in consonance with the statutory mandate contained therein.

27. Learned counsel further argues that the legislative object underlying Section 148 of the Negotiable Instruments Act is to ensure that the agony of the complainant is not prolonged due to appellate proceedings and to provide a measure of financial relief by directing deposit of a portion of the compensation amount awarded by the Trial Court. It is contended that the provision was specifically incorporated to discourage frivolous appeals and objections raised merely to delay payment and frustrate the rights of the complainant.

28. It is further submitted that the power to waive or reduce the statutory deposit contemplated under Section 148 of the Act is to be exercised only in rare and exceptional circumstances. It is contended that no such exceptional circumstance has been demonstrated by the petitioners to exist in the present case.

29. Learned counsel further contends that the objections raised by the petitioners are merely an attempt to circumvent the statutory mandate and delay deposit of the amount awarded in favour of the respondent-complainant. The present proceedings have been initiated solely with a view to defeat the lawful rights of the respondent-complainant and to secure an undue advantage, by avoiding compliance with the order of pre-deposit passed by the learned Appellate Court, and to coerce the complainant under financial duress.

30. The judicial precedents relied upon by the counsel for the respondent-complainant are as under: -

a. ***Bharat Mittal Vs. State of Rajasthan and others, reported as 2025 SCC OnLine SC 2856, passed in SLP (Crl.) No.12327-2025 decided on 18.12.2025.*** The relevant extract of the same reads thus: -

> *III. SECTION 148 OF THE NEGOTIABLE INSTRUMENTS ACT -WHETHER MANDATORY?*
>
> *20. In Surinder Singh Deswal v. Virender Gandhi, this Court, while examining whether Section 148 of the NI Act is mandatory or directory, held that the expression 'may' occurring therein is to be construed as 'shall', thereby rendering the provision mandatory in nature. The same question again fell for consideration in Jamboo Bhandari v. Madhya Pradesh State*

Industrial Development Corporation Ltd. 21., wherein this Court, while taking note of the ratio in Surinder Singh, clarified that although Surinder Singh treated the requirement under Section 148 as mandatory, the appellate court retains a limited discretion, in exceptional circumstances, to exempt an appellant from making the statutory deposit contemplated under the provision. The Court 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 Code of Criminal Procedure 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."

21. This Court, in Muskan Enterprises v. State of Punjab once again considered the question whether Section 148 of the NI Act is mandatory in all cases. Concurring with the ratio laid down in Jamboo Bhandari, this Court reiterated that while Section 148 is generally mandatory, the appellate court retains the discretion, in exceptional circumstances, to exempt an appellant from *making the deposit contemplated under the said provision.*

22. We concur with the ratio laid down in Jamboo Bhandari and Muskan Enterprises and are of the considered view that the appellate court does possess a limited discretion, to be exercised only in exceptional circumstances, to exempt an appellant from making the deposit contemplated under Section 148 of the Act.

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59. Firstly, the nature of the proceedings in Section 138 of the Act. It is now too well settled that proceedings under Section 138 of the NI Act are predominantly compensatory and remedial in the nature of criminal proceedings, intended to uphold the sanctity of cheque-based transactions and ensure that the payee is compensated for the financial loss arising from such dishonour. This Court in the case of R. Vijayan v. Baby 25, held that the object of the offences under Section 138 of the NI Act appears to be both punitive as also compensatory and restitutive in nature. More recently, in Meter and Instruments (P) Ltd. v. Kanchan Mehta2s, it was reiterated that Section 138 embodies a remedial statute and the preliminary object of the provision is compensatory, punitive element being mainly with the object of enforcing the compensatory element. In Kaushalya Devi Massand v. Roopkishore Khore, this Court held that the "offence under Section 138 of the Negotiable Instruments Act, 1881, is almost in the nature of civil wrong which has been given criminal overtones." This Court in the case of P. Mohanraj v. Shah Brothers Ispat Private Ltd has held that the offence under Section 138 of the Act is quasi-criminal in nature. We have no hesitation in holding that both the provisions i.e. Sections 143A and 148 are compensatory in nature and they are couched in the form of a penal statute, therefore the provisions cannot be said to be purely *penal in nature.*

60. Secondly. Purposive interpretation is preferred over the literal interpretation to align the statute with the intention of the legislature: This Court has consistently applied the principles of purposive interpretation for the provisions governing the offences under Section 138 of the Negotiable Instruments Act to align the compensatory and remedial nature of the proceedings under Section 138 with the intention of the legislature, which is of paramount importance. This Court has consistently held that the offence under Section 138 of the Negotiable Instruments Act must be construed through a purposive interpretative lens, having regard to the mischief sought to be remedied by the statute. The legislative intent underlying Chapter XVII is to confer credibility, stability, and sanctity upon commercial transactions by ensuring that negotiable instruments particularly cheques serve as reliable substitutes for cash. Consequently, courts have consistently declined to adopt a narrow, technical, or hyper-literal interpretation that would enable the drawer of a dishonoured cheque to defeat the compensatory object of the provision. Instead, the interpretation must advance the twin purposes of deterring the practice of issuing cheques without sufficient funds and ensuring speedy and effective recovery of the cheque amount.

60.1. The purposive orientation has shaped judicial approaches on several aspects of Section 138, including service of notice, deemed receipt, territorial jurisdiction, and vicarious liability under Section 141. Courts have repeatedly held that procedural requirements cannot be construed in a manner that would undermine the remedial, compensatory, and quasi-civil nature of the offence. The Supreme Court, in a line of decisions such as NEPC Micon Ltd. v. Magma Leasing Ltd. 29, C.C. Alavi Haji v. Palapetty Muhammed, Meters and Instruments Private Limited *v. Kanchan Mehta, Harman Electronics (P) Ltd. v. National Panasonic India Pvt. Ltd. 22, Dashrath Rupsingh Rathod v. State of Maharashtra, K.K. Ahuja v. V.K. Vora (supra) and MSR Leathers v. S. Palaniappan has affirmed that interpretation of Section 138 of the Act must facilitate the achievement of the statute's objective by curbing dilatory tactics, promoting expedition, and protecting the payee's right to realise the debt. Thus, purposive 138 remains an effective interpretation ensures that Section mechanism for maintaining commercial discipline rather than a technical arena for avoiding liability.*

61. We have already adverted to the legislative intent underlying the introduction of Sections 143A and 148 in an earlier part of this judgment. We now proceed to elucidate why the purposive interpretation of Section 148 of the NI Act more faithfully advances that legislative intent, as opposed to the strict textual construction adopted in Bijay Agarwal. A purposive approach ensures that the provision operates in harmony with the compensatory and remedial objectives of the statute, rather than being constrained by an unduly narrow reading of the term 'drawer'.

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66. The legislative intent for enacting the amendments is as follows:

"As a result of this, injustice is caused to the payee of a dishonoured cheque who has to spend considerable time and resources in court proceedings to realize the value of the cheque. Such delays compromise the sanctity of cheque transactions.

(2). It is proposed to amend the said Act with a view to address the issue of undue delay in final resolution of cheque dishonour

cases so as to provide relief to payees of dishonoured cheques and to discourage frivolous and unnecessary litigation which would save time and money. The proposed amendments will strengthen the credibility of cheques and help trade and commerce in general by allowing lending institutions, including banks, to continue to extend financing to the productive sectors of the economy."

67. The interpretation adopted in the aforesaid decisions rests upon an overly literal construction of the statutory language and fails to give effect to the remedial intent underlying the 2018 Amendment. Sections 143A and 148 were enacted to provide interim monetary relief to payees during the pendency of cheque-dishonour proceedings, thereby addressing the longstanding problem of procedural delay and frivolous defences. To confine the application of these provisions to the company alone defeats their compensatory purpose, particularly in cases where the company is under a legal impediment and is unable to discharge its liabilities. Such an interpretation amounts to a departure from the true legislative intention, in our considered view.

68. In cases where there is no legal impediment in prosecuting a company, or where the prosecution is directed against a natural person, the statutory requirement to make payment under Sections 143A and 148 applies without exception. To then completely exempt an accused person of a company that is shielded by a legal snag from the obligation to make such payment despite standing on the same footing as those who are otherwise are required to comply with the deposits would create an artificial and unwarranted distinction. Such a differential treatment between two categories of accused persons, similarly situated in all material respects, runs contrary to the very purpose for which the legislature introduced the amendment.

69. It must be emphasised that, while interpreting Sections 143A and 148 of the Act, due regard must be had to the legislative intent underlying their enactment. The object behind the introduction of these provisions was to address the problem of undue delay in the final resolution of chequedishonour cases, to provide meaningful interim relief to the payees of dishonoured cheques, and to discourage frivolous and vexatious defences, thereby conserving judicial time and resources. The amendments were enacted with the larger purpose of strengthening the credibility of cheque transactions and promoting trade and commerce, by ensuring that lending institutions and banks retain the confidence to extend financial assistance to productive sectors of the economy.

70. To deny the complainant the benefit of these amendments merely because the criminal proceedings are instituted against the directors of a non-existent company, and not against the company itself owing to a legal impossibility or impediment, would be to deprive lenders and payees of the very relief that the amendment sought to secure. Such an interpretation would run counter to the legislative intent and would effectively defeat the purpose of the amendment.

E. CONCLUSION

71. Therefore, in order to answer the question formulated in Paragraph 8, we are of the considered view that a director of a company cannot be granted a blanket exemption from the deposit contemplated under Section 148 of the Act, as suggested in Bijay Agarwal. Whether such exemption is warranted must necessarily depend upon the factual matrix of each individual case.

72. With utmost respect to our learned esteemed brothers that decided Shri Gurudatta Sugars Marketing Pvt. Ltd. v. Prithviraj Sayajirao Deshmukh and Bijay Agarwal v. Medilines, we find ourselves unable to concur with the interpretation adopted therein. In our considered view, the reasoning in those decisions does not fully address the issue formulated, and the construction placed upon the statutory provisions appears to depart from the textual scheme as well as the legislative intent. As a Bench of co-equal strength, we are bound by the principles of judicial discipline and, therefore, cannot take a different view on our own. In light of the substantial interpretative question involved, we deem it appropriate that the matter would require to be considered by a Larger Bench.

73. As indicated above, we are unable to concur with the decisions in Gurudatta and Bijay Agarwal for the reasons hereinbefore recorded. We consider it necessary to clarify that our observations are confined solely to the outcome of those decisions insofar as they adopt a strict interpretation of the provisions, which has the effect of granting a blanket exemption from the deposit contemplated under Section 148 to the category of persons referred to in Section 141 of the Act in situations where the company cannot be prosecuted. We have not, even for a moment, expressed any disagreement with the settled principles reaffirmed in those decisions such as the doctrine of corporate separateness or the proposition that an authorised signatory of a company cannot be equated with the 'drawer' of the cheque for the purposes of prosecution.

74. In our considered view, the issue identified herein requires an authoritative pronouncement by a Larger Bench of this Court on the following question."

b. ***M/s R.A. Santana Marketing Servies Pvt. Ltd. Vs. JMK Technology Pvt. Ltd. And another, passed in SLP (Criminal) No.1406 of 2025, decided on 20.08.2025***. The relevant extract of the same reads as under: -

> *"3. The respondent was convicted by the trial Court under Section 138 of the Negotiable Instruments Act, 1881 and was awarded two years of imprisonment with a further direction to pay a sum of Rs.8,65,91,420/-. Against the aforesaid order of conviction, an appeal was preferred and an application was moved for the suspension of sentence. The Additional Sessions Judge, Gurugram vide order dated 18.03.2024 directed for the suspension of sentence subject to the respondent depositing 20% of the compensation awarded. Since, the amount was not deposited, the order of suspension of sentence was recalled vide order dated 18.07.2024 by the Additional Sessions Judge, Gurugram. On an appeal to the High Court, on the affidavit of the respondent that he is not in a position to deposit 20% of the amount, the High Court exempted him from depositing the said amount and still maintained the order of suspension of sentence.*
>
> *4. The High Court in exempting the respondent from payment of the 20% of the compensation has not assigned any reason whatsoever except that as the respondent is not in a position to make the said deposit, his aforesaid financial incapacity ought not come in the way of his liberty.*
>
> *5. It is true that personal liberty is paramount but when there is suspension of sentence with a direction, the respondent convict has to abide by the condition imposed while protecting his personal liberty. However, if that condition is not followed, the interim protection granted is liable to be revoked as had done in this case. Therefore, the High Court manifestly erred in law in exempting the deposit of 20% of the amount as a condition for*

suspension of the sentence."

31. Learned counsel appearing on behalf of the respondent-complainant contends that the legislative scheme underlying Sections 143-A and 148 of the Negotiable Instruments Act, 1881 is essentially compensatory and remedial in nature. It is submitted that the aforesaid provisions were consciously introduced by the legislature with the object of providing interim financial relief to the payee/holder of the cheque and to address the mischief arising from prolonged delays in disposal of proceedings under Section 138 of the Act.

32. Learned counsel had submitted that the object of the amendments brought into the Negotiable Instruments Act was to enhance the credibility of commercial transactions and to prevent unscrupulous drawers of dishonoured cheques from frustrating legitimate claims by resorting to prolonged and dilatory litigation and the provisions therefore require a purposive and pragmatic interpretation consistent with the legislative intent.

33. It is further argued that the interpretation sought to be placed by the petitioners upon the expression "drawer" would defeat the very object of the statute. Learned counsel contends that in cases involving juristic entities such as companies, the acts of issuance and execution of cheques are necessarily performed through Directors and authorised signatories and, therefore, the expression "drawer" occurring in Section 148 of the Negotiable Instruments Act must receive an extended and purposive interpretation so as to include the Directors and authorised

signatories who were directly responsible for issuance of the cheque and who stand convicted under Section 138 read with Section 141 of the Act.

34. Learned counsel further submitted that the Hon'ble Supreme Court, while interpreting Section 148 of the Negotiable Instruments Act, has consistently held that the requirement of deposit contemplated thereunder is ordinarily mandatory in character, though the Appellate Court may retain limited discretion to reduce or waive the requirement in rare and exceptional circumstances for special reasons to be recorded.

35. It is contended that the discretion available to the Appellate Court is not intended to be exercised routinely and that exemption from deposit is to remain an exception rather than the rule. It is submitted that the petitioners have failed to demonstrate any exceptional or extraordinary circumstance warranting interference with the order passed by the Appellate Court directing deposit of 20% of the compensation amount.

36. Learned counsel thus argues that the interpretation canvassed by the petitioners would substantially dilute the efficacy of Section 148 of the Negotiable Instruments Act and frustrate the legislative purpose behind the amendment by enabling convicted Directors and authorised signatories to avoid statutory deposit merely on the plea that the cheque had been issued on behalf of a Company.

CONSIDERATION AND DECISION

37. I have heard learned counsel appearing for the respective parties and have gone through the documents appended along with the present

petition including the impugned order and the judgments relied upon by them.

38. Before proceedings further, it is necessary to refer to the relevant provisions of the Negotiable Instruments Act and the Cr.P.C. The same are delineated as under: -

THE NEGOTIABLE INSTRUMENTS ACT, 1881

> *"143A. Power to direct interim compensation.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, <u>the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant</u>— (a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and (b) in any other case, upon framing of charge. (2) The interim compensation under sub-section (1) shall not exceed twenty per cent. of the amount of the cheque. (3) The interim compensation shall be paid within sixty days from the date of the order under subsection (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque. (4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.*
>
> *(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973 (2 of 1974). (6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure,*

1973 (2 of 1974), shall be reduced by the amount paid or recovered as interim compensation under this section.

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***148. Power of Appellate Court to order payment pending appeal against conviction**.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent. of the fine or compensation awarded by the trial Court: Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 143A. (2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant. (3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal: Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.*

CODE OF CRIMINAL PROCEDURE, 1973

389. Suspension of sentence pending the appeal; release of appellant on bail.—(1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed

<u>against be suspended and, also, if he is in confinement, that he be released on bail, or on his own bond</u>: 1 [Provided that the Appellate Court shall, before releasing on bail or on his own bond a convicted person who is convicted of an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years, shall give opportunity to the Public Prosecutor for showing cause in writing against such release: Provided further that in cases where a convicted person is released on bail it shall be open to the Public Prosecutor to file an application for the cancellation of the bail.] (2) The power conferred by this section on a Appellate Court may be exercised also by the High Court in the case of an appeal by a convicted person to a Court subordinate thereto. (3) Where the convicted person satisfies the Court by which he is convicted that he intends to present an appeal, the Court shall,—

(i) where such person, being on bail, is sentenced to imprisonment for a term not exceeding three years, or

(ii) where the offence of which such person has been convicted is a bailable one, and he is on bail, order that the convicted person be released on bail, unless there are special reasons for refusing bail, for such period as will afford sufficient time to present the appeal and obtain the orders of the Appellate Court under sub-section (1); and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended. (4) When the appellant is ultimately sentenced to imprisonment for a term or to imprisonment for life, the time during which he is so released shall be excluded in computing the term for which he is so sentenced."

(Emphasis supplied)

39. Before proceeding further, it is also deemed expedient to refer to the order under challenge in these petitions. The relevant extract thereof

reads thus: –

> *“Present appeal has been preferred by appellants/accused against judgment of conviction dated 01.03.2023 and order on quantum of sentence dated 04.03.2023.*
>
> *Along with memorandum of appeal, an application for suspension of sentence has been filed. Heard. The appellants-convicts were on bail during the trial and their sentence have also been suspended and have been released on bail by the learned trial Court to prefer an appeal. Heard. In view of the above, the present application for suspension of sentence is allowed and the sentence awarded to the appellants are suspended till the disposal of appeal and they are ordered to be released on bail subject to furnishing of bail bonds in the sum of Rs.50,000/- each with one surety each of the like amount to the satisfaction of this court, subject to the condition that they will deposit 20% of the compensation amount awarded by the learned trial court within a period of 60 days in view of Section 148 of the Negotiable Instrument Act, 1881. It is made clear that in case appellants fails to deposit the aforesaid amount, their bail shall be deemed to be cancelled. Requisite bonds furnished, same are accepted and attested. Endorsement 'Mark A', Mark-B on the photocopy of property given by sureties are made. Copies of sale deed/jamabandi be sent to concerned Sub-Registrar for making red ink note in the record that the property has been given as security in the present case and the same shall not be transacted in any way, without the order of this Court. Compliance report be filed on the next date of hearing.*
>
> *Let notice of appeal be issued to respondent for 02.06.2023 on filing of copy of grounds of appeal and PF etc.*

40. A perusal of the impugned order, extracted above, clearly reflects that while the Appellate Court proceeded to suspend the substantive

sentence imposed upon the petitioners and directed their release on bail upon furnishing bail bonds in the sum of Rs.50,000/- each with one surety each in the like amount to the satisfaction of the Court concerned, the said relief was not granted unconditionally. It is evident that the learned Appellate Court simultaneously imposed an additional condition requiring the petitioners to deposit 20% of the compensation amount awarded by the Trial Court within a period of 60 days, in exercise of powers under Section 148 of the Negotiable Instruments Act, 1881.

41. The impugned order further stipulates that in the event of failure on the part of the petitioners to deposit the aforesaid amount within the prescribed period, the concession of bail granted to them would automatically stand cancelled. Consequently, the requirement of statutory deposit prescribed under Section 148 of the Negotiable Instruments Act has effectively been incorporated as an inseparable condition governing the continuance of suspension of sentence and grant of bail.

42. Thus, the benefit of suspension of sentence granted to the petitioners under Section 389 Cr.P.C. has been made contingent upon compliance with the direction of pre-deposit contemplated under Section 148 of the Negotiable Instruments Act. The inevitable effect of the impugned order, therefore, is that failure to comply with the direction regarding deposit would not merely entail consequences relatable to recovery or enforcement of compensation, but would directly result in cancellation of the bail already granted to the petitioners and revival of their

custodial sentence.

43. The impugned order, therefore, unmistakably demonstrates that the Appellate Court has treated the requirement of deposit under Section 148 of the Negotiable Instruments Act as a mandatory pre-condition for continuation of suspension of sentence and enjoyment of the concession of bail during pendency of the appeal.

44. The question which arises for consideration and indeed assumes considerable significance in the present matter, is as to whether the requirement of deposit contemplated under Section 148 of the Negotiable Instruments Act, 1881 can legitimately be imposed as a condition precedent for grant of suspension of sentence and release on bail under Section 389 of the Code of Criminal Procedure, 1973.

45. Section 389 Cr.P.C. regulates the power of the Appellate Court to suspend execution of sentence during pendency of appeal and to enlarge the convicted appellant on bail. The provision empowers the Appellate Court, pending disposal of the appeal, to direct that the sentence or order appealed against be suspended and, if the appellant is in confinement, to release him on bail or on his own bond.

46. The foundational object underlying Section 389 Cr.P.C. is preservation of personal liberty of a convict during pendency of appellate proceedings, particularly where the appeal raises arguable questions requiring adjudication and the convict cannot be compelled to undergo the entire sentence before the appeal itself is finally decided. The conditions ordinarily imposed while granting suspension of sentence are, therefore, conditions relatable to securing the presence of the

appellant during pendency of the appeal and ensuring due compliance with the process of law.

47. It is also pertinent to notice that although the expressions “bail”, “bond” and “bail bond” were not specifically defined under the Code of Criminal Procedure, 1973, the said expressions now stand statutorily defined under Section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The said provision reads as under:

> 2. (1) In this Sanhita, unless the context otherwise requires,—
> xxx xxx xxx
> (b) "bail" means release of a person accused of or suspected of commission of an offence from the custody of law upon certain conditions imposed by an officer or Court on execution by such person of a bond or a bail bond;
> xxx xxx xxx
> (d) "bail bond" means an undertaking for release with surety;

(e) "bond" means a personal bond or an undertaking for release without surety;

48. The expression “bail”, therefore, essentially contemplates the release of a person from the custody of law subject to such conditions as may be imposed by the competent Court or authority, ordinarily upon execution of a “bond” or a “bail bond” by such person. The expression “bail bond” has been specifically defined to mean an undertaking furnished for securing release with the backing of surety, whereas the expression “bond” denotes an undertaking for release without furnishing of any surety. Thus, both the expressions fundamentally relate to securing the presence of the accused or convict before the Court and ensuring compliance with the conditions governing his release from custody.

49. Section 148 of the Negotiable Instruments Act, 1881, on the other hand, incorporates a distinct statutory mechanism operating in the sphere of compensatory relief during pendency of appellate proceedings. The said provision stipulates that notwithstanding anything contained in the Code of Criminal Procedure, the Appellate Court, in an appeal arising out of conviction under Section 138 of the Act, may direct the appellant to deposit such sum which shall not be less than 20% of the fine or compensation awarded by the Trial Court.

50. The provision further clarifies that the amount so directed to be deposited under Section 148 is in addition to any interim compensation that may already have been awarded under Section 143-A of the Negotiable Instruments Act, 1881. Thus, the statutory scheme itself contemplates that the powers under Sections 143-A and 148 operate within a compensatory framework intended to secure monetary protection to the complainant during pendency of trial and appellate proceedings respectively.

51. Viewed in the aforesaid context, the submission advanced on behalf of the petitioners is that the power exercisable under Section 148 of the Negotiable Instruments Act cannot be conflated with or treated as an inseparable component of the power of suspension of sentence vested under Section 389 Cr.P.C. According to learned counsel, the two provisions occupy distinct legal fields and are intended to subserve different purposes. It was contended that Section 389 Cr.P.C. concerns itself with the question of suspension of execution of sentence and preservation of personal liberty of the convict pending appeal, whereas

Section 148 of the Negotiable Instruments Act pertains to a compensatory monetary direction intended to safeguard the financial interests of the complainant. Consequently, the statutory requirement of deposit contemplated under Section 148 cannot be elevated to the status of a mandatory condition precedent governing the grant or continuance of suspension of sentence.

52. The argument advanced is that once the legislature has consciously enacted separate statutory provisions operating in separate domains, the Appellate Court is required to exercise the powers under Section 389 Cr.P.C. and Section 148 of the Negotiable Instruments Act independently and distinctly. While the Appellate Court may undoubtedly direct deposit under Section 148 in accordance with law, non-compliance thereof, according to the counsel for the petitioners, should not automatically result in cancellation of suspension of sentence or denial of bail by treating the monetary direction as an indispensable prerequisite to release under Section 389 Cr.P.C.

53. While argument of the counsel for the petitioner may be technically attractive, however, the same cannot be examined in isolation and divorced from the larger statutory framework and the legislative object sought to be achieved by the relevant enactments. The submission is, therefore, required to be appreciated not merely on the basis of a literal construction of the provisions but also in the context of their practical operation and cumulative effect within the scheme of criminal jurisprudence.

54. Undoubtedly, the Code of Criminal Procedure, 1973 did not

specifically define the expression “bail”. However, the said expression now stands statutorily defined under the Bharatiya Nagarik Suraksha Sanhita, 2023. The definition incorporated therein substantially reflects and codifies the settled jurisprudential understanding of the concept of bail as evolved through a long line of judicial pronouncements rendered over the years, notwithstanding the absence of an earlier statutory definition.

55. In the aforesaid backdrop and without burdening the present discussion with an exhaustive survey of precedents on the concept of bail, this Court deems it appropriate to take guidance from the statutory definition incorporated under Section 2(1)(b) of the BNSS, 2023 for the limited purpose of examining the contention raised by the petitioners as to whether conditions, including monetary conditions, can lawfully be imposed while granting suspension of sentence and release on bail.

56. A perusal of the said provision already reproduced earlier clearly indicates that “bail” contemplates release of a person from custody upon “certain conditions” imposed by the Court or competent authority, including execution of a bond or bail bond. The expression employed by the legislature, namely “certain conditions”, is of wide amplitude and does not restrict the authority of the Court merely to conditions relating to appearance before Court or furnishing of sureties alone.

57. The statutory language thus recognizes and preserves the discretionary jurisdiction of the Court to impose such conditions as may be considered necessary, appropriate, just and expedient in the facts and circumstances of a given case while enlarging an accused or convict on

bail. Such conditions are intended not merely to secure the presence of the accused during pendency of proceedings, but also to balance competing equities, safeguard the interests of justice and ensure that the statutory object underlying a particular enactment is not rendered nugatory.

58. Consequently, while exercising powers under Section 389 Cr.P.C. relating to suspension of sentence and grant of bail pending appeal, the Appellate Court is not denuded of authority to impose conditions which it may deem fit and proper in the interest of justice. The release of a convict on bail, therefore, is not an unconditional or absolute right but remains subject to compliance with such lawful conditions as may be imposed by the Court while balancing the rights of the convict with the rights of the complainant and the larger legislative intent underlying the statute in question.

59. Section 389 Cr.P.C. further contemplates that where a person has been convicted for an offence punishable with imprisonment for a term not exceeding three years, or where the offence itself is bailable in nature and the convict was already on bail during trial, such person ordinarily deserves to be released on bail unless the Court records specific reasons warranting denial of such concession.

60. A perusal of the impugned order in the present case clearly reveals that the petitioners were not directed to be released merely on their personal bonds. Rather, the learned Appellate Court consciously imposed multiple conditions while suspending the sentence. Apart from directing the petitioners to furnish bail bonds in the sum of Rs.50,000/-

each along with one surety each in the like amount to the satisfaction of the Court concerned, the Appellate Court also incorporated an additional condition requiring deposit of 20% of the compensation amount awarded by the Trial Court.

61. The order thus demonstrates that the Appellate Court exercised its jurisdiction under Section 389(1) Cr.P.C. by granting suspension of sentence subject to conditions which it considered appropriate in the peculiar facts and statutory context of the case. The condition regarding pre-deposit was, therefore, not imposed dehors the power under Section 389(1) Cr.P.C., but as part of the composite exercise undertaken by the Appellate Court while balancing the rights of the convicted appellants with the statutory protection intended to be extended to the complainant under Section 148 of the Negotiable Instruments Act, 1881.

62. Since the definition of "bail" under the BNSS, 2023 expressly recognizes the authority of the Court or the competent officer to release a person from custody upon "certain conditions", the real question that now falls for consideration is not whether conditions can be imposed while granting suspension of sentence, but rather whether the condition requiring pre-deposit under Section 148 of the Negotiable Instruments Act, 1881 can legitimately form part of the conditions governing such release on bail.

63. In other words, the issue which requires examination is whether the statutory direction regarding deposit of a portion of the compensation amount under Section 148 of the Negotiable Instruments Act can be treated as an integral and enforceable component of the order directing

release of the convict on bail during pendency of appeal.

64. The argument advanced on behalf of the petitioners proceeds on the premise that the condition relating to pre-deposit is wholly foreign to the concept of bail and that the same cannot be interlinked with suspension of sentence under Section 389 Cr.P.C. However, such a proposition cannot be accepted in absolute terms.

65. Once the legislature itself has consciously employed the expression "upon certain conditions" while defining the concept of bail, the discretion of the Court to impose appropriate conditions cannot be narrowly restricted only to conditions relating to appearance before Court or furnishing of sureties. The nature and scope of conditions to be imposed would necessarily depend upon the statutory framework governing the offence, the object sought to be achieved by the legislation and the facts and circumstances of each case.

66. Therefore, where an Appellate Court, while exercising powers under Section 389(1) Cr.P.C., suspends the sentence of a convict under Section 138 of the Negotiable Instruments Act and simultaneously directs compliance with Section 148 of the Act, such a condition would not ipso facto be regarded as alien to the jurisdiction relating to grant of bail. Rather, the condition forms part of the broader judicial exercise undertaken by the Appellate Court while balancing the liberty of the convict with the statutory rights created in favour of the complainant under the special enactment.

67. The condition of pre-deposit, therefore, does not operate independently in a vacuum but becomes part of the composite order regulating

suspension of sentence and release on bail. So long as such condition remains within the bounds of statutory authority and does not suffer from arbitrariness or perversity, the same cannot be said to be beyond the competence of the Appellate Court merely because it carries a monetary component.

68. The law does not either confine or exhaustively prescribe the nature of conditions that may be imposed by an Appellate Court while exercising jurisdiction under Section 389 Cr.P.C. for suspension of sentence and release of a convict on bail. The discretion vested in the Appellate Court is necessarily broad and is to be exercised in consonance with settled judicial principles.

69. The relevant considerations have always been the judicial conscience of the Court, the doctrine of proportionality, fairness and constitutional restraint so as to balance the competing rights and interests of the parties. On the one hand lies the personal liberty of the convict pending adjudication of the appeal, while on the other stands the statutory right and financial interest of the complainant, particularly in prosecutions arising under Section 138 of the Negotiable Instruments Act, 1881.

70. The argument advanced on behalf of the petitioners, therefore, requires examination from the standpoint as to whether the condition of pre-deposit contemplated under Section 148 of the Negotiable Instruments Act is so excessive, arbitrary or disproportionate that it offends judicial conscience or effectively deprives the petitioners of their statutory and constitutional remedies of appeal.

71. Upon consideration of the aforesaid submission, this Court finds itself

unable to agree with the contention advanced on behalf of the petitioners. The requirement of deposit of a minimum of 20% of the compensation or fine amount is not a judicial innovation introduced by the Appellate Court on its own volition. Rather, the said condition flows directly from a statutory mandate consciously incorporated by the legislature through Section 148 of the Negotiable Instruments Act, 1881.

72. The legislative wisdom behind incorporation of the said provision has already been recognized by the Hon'ble Supreme Court while interpreting the compensatory framework introduced under the amended provisions of the Negotiable Instruments Act. The object is to prevent abuse of appellate remedies by convicted persons merely to delay payment and to ensure that the complainant receives some degree of interim monetary protection during pendency of prolonged appellate proceedings.

73. The condition of pre-deposit, therefore, cannot be viewed in isolation as a punitive or oppressive restriction upon liberty. It is part of a larger statutory mechanism intended to balance the rights of the convict with the legitimate financial interests of the complainant who has already succeeded before the Trial Court and secured an order of conviction and compensation.

74. Significantly, the constitutional validity of Section 148 of the Negotiable Instruments Act has not been struck down or declared ultra vires. The provision continues to occupy the field as a valid piece of legislation enacted by Parliament. Once the statutory prescription itself

remains constitutionally valid, it may not ordinarily be contended that imposition of a condition expressly contemplated by such statute ipso facto violates the right of appeal or curtails access to constitutional remedies.

75. Merely because compliance with the statutory condition may involve financial consequences does not render the provision unconstitutional or disproportionate. The doctrine of proportionality does not prohibit all restrictions or conditions; it merely ensures that the condition imposed bears a reasonable nexus with the object sought to be achieved and does not operate in an arbitrary or manifestly excessive manner.

76. Viewed in the aforesaid perspective, the requirement of pre-deposit under Section 148 of the Negotiable Instruments Act cannot be said to be so unconscionable or disproportionate as to warrant interference merely because the same has been incorporated as a condition while suspending sentence and granting bail pending appeal.

77. The next issue which arises for consideration is as to whether, in the peculiar facts and circumstances of the present case, the condition regarding pre-deposit deserves to be waived, relaxed or interfered with on the ground that the same is excessively harsh, onerous or oppressive in nature.

78. Upon a consideration of the record, this Court finds that there is no substantive material available on the file on the basis whereof it may reasonably be concluded that the requirement of deposit of 20% of the compensation amount imposes such exceptional financial hardship upon the petitioners so as to warrant exercise of judicial discretion in

their favour for waiver or dilution of the statutory requirement.

79. No credible documentary material reflecting the financial incapacity, insolvency, inability or exceptional economic distress of the petitioners has been placed before this Court. In the absence of any supporting material substantiating the alleged hardship, this Court cannot proceed merely on conjectures or presumptions to hold that compliance with the statutory requirement would be impossible or disproportionately burdensome upon the petitioners.

80. The plea of financial hardship, particularly while seeking exemption from a statutory requirement incorporated by the legislature, must necessarily be supported by cogent material demonstrating genuine inability. Mere assertion of hardship, unsupported by any financial records, statements, liabilities or circumstances reflecting incapacity to comply, cannot by itself furnish sufficient ground to waive the statutory condition contemplated under Section 148 of the Negotiable Instruments Act, 1881.

81. This Court has also considered the broader issue as to whether the requirement of pre-deposit could at all be imposed as a condition while suspending sentence and granting bail under Section 389(1) Cr.P.C. Having examined the statutory framework, the legislative object underlying the amendment and the scope of judicial discretion exercisable while granting suspension of sentence, this Court finds no legal embargo prohibiting imposition of such a condition.

82. The law does not prohibit the Appellate Court from imposing conditions while granting suspension of sentence, so long as such

conditions do not transgress constitutional limitations, infringe fundamental rights in an arbitrary manner or virtually extinguish the substantive remedy available to the convict. Judicial conditions attached to bail or suspension of sentence must undoubtedly remain fair, reasonable and proportionate; however, every monetary condition cannot ipso facto be treated as unconstitutional or oppressive.

83. The statutory requirement of pre-deposit under Section 148 of the Negotiable Instruments Act cannot be viewed as a condition which extinguishes or nullifies the petitioners' right to pursue their appeal. The right of appeal itself is not a fundamental right but a creature of statute and remains subject to such regulatory conditions as the legislature may legitimately prescribe. Consequently, where the legislature, in its wisdom, has incorporated a statutory mechanism requiring deposit of a minimum percentage of compensation during pendency of appeal, the same cannot ordinarily be treated as violative of constitutional guarantees merely because it carries financial implications.

84. It is also pertinent to note that the requirement of deposit of 20% of the compensation amount has been specifically directed by the Appellate Court by invoking the statutory framework contained in Section 148 of the Negotiable Instruments Act, while the suspension of sentence has been granted in exercise of powers under Section 389(1) Cr.P.C. The two provisions have thus been harmoniously applied by the Appellate Court while balancing the competing rights of the parties.

85. I am of the opinion that incorporation of the statutory condition of pre-

deposit as part of the order suspending sentence does not result in any conflict with the provisions of Section 389 Cr.P.C., nor does it amount to imposition of an alien or impermissible condition dehors the statutory scheme.

86. The argument advanced on behalf of the petitioner is also being tested also on legal principles of purposive interpretation and the practical consequences that would flow if the interpretation suggested by the petitioners were to be accepted. Even assuming, for the sake of argument, that the condition contemplated under Section 148 of the Negotiable Instruments Act, 1881 cannot be incorporated as part of the order directing release on bail under Section 389 Cr.P.C., the inevitable consequence thereof would substantially defeat the legislative object behind insertion of Section 148 itself.

87. The provision contained in Section 148 of the Negotiable Instruments Act was introduced by way of amendment with a definite legislative purpose to mitigate the financial hardship suffered by a complainant on account of dishonour of negotiable instruments and to discourage convicted persons from pursuing prolonged appellate litigation on frivolous, technical or specious pleas merely to delay repayment.

88. The legislature, while introducing the said provision, was conscious of the practical realities surrounding litigation under Section 138 of the Negotiable Instruments Act, where complainants, despite securing conviction after prolonged trial, were often compelled to undergo further years of litigation during pendency of appeals without receiving any effective monetary relief. Section 148 was thus intended to strike a

balance between the appellate rights of the convict and the legitimate financial interests of the complainant.

89. It is equally significant that the statute itself contemplates restitutionary balancing by providing for repayment of the amount along with interest in the event the appellant ultimately succeeds in appeal and secures acquittal. The element of interest attached to such repayment is itself compensatory in nature and demonstrates that the legislature consciously intended to balance equities between the parties while preserving the efficacy of the appellate remedy.

90. If the submission advanced on behalf of the petitioners were to be accepted, the direction under Section 148 of the Negotiable Instruments Act would, in effect, become entirely detached from the order suspending sentence and granting bail. Such an interpretation would necessarily imply that even after directing deposit under Section 148, the Appellate Court would be powerless to secure compliance thereof while granting suspension of sentence and the complainant would be compelled to independently pursue separate enforcement or recovery proceedings in accordance with law.

91. It is also of considerable significance that Section 148 of the Negotiable Instruments Act does not itself prescribe any specific consequence for non-compliance or non-deposit of the amount directed by the Appellate Court. Therefore, if the interpretation canvassed by the petitioners is accepted, the statutory direction contemplated under Section 148 would effectively be reduced to a mere paper direction, lacking any practical enforceability during pendency of appeal.

92. The inevitable consequence of such an interpretation would be that the complainant, despite succeeding before the Trial Court and despite securing an order under Section 148, would again be compelled to undertake separate legal proceedings for enforcement and recovery of the amount directed to be deposited. Such a course would not only prolong litigation but would also expose the complainant to additional financial burden, delay and hardship which are precisely the mischief which the legislature intended to remedy through the amendment introducing Section 148 of the Negotiable Instruments Act.

93. I am of the opinion that such an interpretation would plainly frustrate the legislative object underlying incorporation of the compensatory provisions and would encourage precisely the kind of dilatory and speculative litigation which the amendment sought to discourage. The doctrine of purposive interpretation obligates the Court to adopt a construction which advances the remedy and suppresses the mischief rather than one which renders the statutory provision ineffective or illusory in practical operation.

94. The submission advanced on behalf of the petitioners, if accepted, would therefore lead to multiplicity of proceedings, increase the financial burden upon the complainant and substantially dilute the efficacy of the statutory protection consciously introduced by Parliament. Such a construction, in the considered view of this Court, cannot be accepted as reflecting the true legislative intent underlying Section 148 of the Negotiable Instruments Act, 1881.

95. For the reasons as aforesaid, I fail to find myself in agreement with the

counsel for the petitioner on the said aspect. I find support also from the judgment in the matter of ***M/s R.A. Santana Marketing Servies Pvt. Ltd. (supra).***

96. Adverting to the next limb of argument advanced on behalf of the petitioners by placing reliance on the judgment in the matter of ***Shri Gurudatta Sugars Marketing Pvt. Ltd.*** (supra) to the effect that the expression "drawer" used in Section 148 of the Negotiable Instruments Act, 1881 has to be assigned the same meaning as the expression 'drawer' used in Section 143-A of the Negotiable Instruments Act, 1881, I am of the opinion that the position in law needs no further examination or consideration in view of the subsequent pronouncement of the Hon'ble Supreme Court in the matter of ***Bharat Mittal Vs. State of Rajasthan and others, reported as 2025 SCC OnLine SC 2856***, wherein the Apex Court has specifically considered and examined the ratio of ***Shri Gurudatta Sugars Marketing Pvt. Ltd.*** *(supra)* and while interpreting the scope and ambit of Section 148 of the Negotiable Instruments Act, distinguished the earlier judgment and clarified the legal position governing the expression "drawer" in the context of the compensatory provisions introduced by way of amendment to the Negotiable Instruments Act. It has been noticed by the Hon'ble Supreme Court that the provisions contained in Sections 143-A and 148 of the Negotiable Instruments Act were inserted by subsequent amending legislation with a distinct legislative object, namely to strengthen the credibility of commercial transactions, discourage dilatory tactics adopted by convicted accused persons and provide

interim monetary relief to the complainant during pendency of criminal proceedings and appeals.

97. The Hon'ble Supreme Court further observed that while the definition of "drawer" under the Act existed prior to the subsequent amendments, the newly introduced compensatory provisions are required to be interpreted in light of the legislative intent behind their incorporation. Consequently, a strict and narrow interpretation divorced from the object sought to be achieved by the amendment would defeat the very purpose of the statutory scheme.

98. The judgment in Bharat Mittal (supra), being later in point of time and having specifically considered the earlier decision in Shri Gurudatta Sugars Marketing Pvt. Ltd. (supra), therefore assumes binding precedential value on the issue. The Hon'ble Supreme Court has thus adopted a purposive construction while interpreting the compensatory provisions contained in the Negotiable Instruments Act and has recognized that the liability contemplated under Section 148 cannot be permitted to be defeated merely on the technical plea that the cheque had been signed by Directors or authorised signatories on behalf of a juristic entity.

99. An interpretation which has the effect of frustrating or defeating the very legislative object underlying incorporation of Sections 143-A and 148 of the Negotiable Instruments Act, 1881 cannot be permitted to prevail. The compensatory framework introduced by the amending provisions was consciously enacted to strengthen the efficacy and credibility of cheque transactions and to ensure that a complainant is

not left remediless during the pendency of protracted criminal proceedings and appellate litigation.

100. The Hon'ble Supreme Court in Bharat Mittal (supra) has thus categorically emphasized that the requirement of pre-deposit under Section 148 of the Negotiable Instruments Act must receive a purposive and meaningful interpretation consistent with the legislative intent behind the amendment. It was specifically noticed that if Directors or authorised signatories, who were actively managing the affairs of the Company and had issued the cheque on its behalf, are excluded from the ambit of the expression "drawer" merely on the basis of a narrow technical interpretation, the very object sought to be achieved by the legislature would stand substantially diluted.

101. The Hon'ble Supreme Court also held that once the object behind the condition of pre-deposit is to preserve and protect the rights of the complainant and to ensure some degree of interim financial relief during pendency of appeal, the persons who were responsible for the conduct of the business of the Company and who had signed and issued the cheque on behalf of the juristic entity cannot seek immunity from the statutory obligation by resorting to hyper-technical interpretation of the term "drawer".

102. It was further observed that the liability contemplated under Section 148 of the Negotiable Instruments Act is intrinsically connected with the underlying compensatory object of the statute and, therefore, the expression "drawer" cannot be interpreted in a restrictive sense so as to permit convicted Directors or authorised signatories to evade

compliance with the statutory requirement of pre-deposit despite having actively participated in the issuance of the dishonoured cheque.

103. The judgments relied upon by learned counsel for the respondent-complainant, particularly Bharat Mittal (supra), also reiterate and re-emphasize that the direction regarding pre-deposit under Section 148 of the Negotiable Instruments Act is intended to be ordinarily enforced as a rule and that departure therefrom is permissible only in rare and exceptional circumstances for special reasons to be recorded by the Court. The statutory scheme, therefore, clearly indicates that exemption from compliance of Section 148 is not to be granted routinely or mechanically and that the burden lies upon the appellant-convict to demonstrate existence of exceptional circumstances warranting waiver or relaxation of the requirement of pre-deposit.

104. Both the judgments are thus by a bench of co-equal strength and the issue has been referred to a larger Bench of the Supreme Court in the matter of ***Bharat Mittal (supra)***. In the said circumstances, this Court refrains from commenting any further on the said issue, to be examined after the larger Bench judgment by the Supreme Court.

105. Now, adverting to the case in hand. This Court had passed an order to the effect that the direction issued by the appellate Court to the extent of suspending the sentence subject to payment of 20% of the amount of compensation to remain in abeyance.

106. In light of the facts and law discussed in preceding paragraphs, the present petitions are disposed of holding as under: -

(i) The appellate Court has the power to impose a condition of pre-deposit of compensation or fine, as determined under Section 148 of the Negotiable Instruments Act, 1881, for suspending sentence under Section 389 Cr.P.C. The order under challenge, to the aforesaid extent, is upheld.

(ii) The issue as to whether an authorized signatory of a juristic entity, would be a 'drawer' within the meaning of Section 148 of the Negotiable Instruments Act, 1881 or not, is ordered to be left open, subject to final decision by larger Bench of the Supreme Court.

(iii) The appellate Court shall proceed further with the matter on merits and decide the same without seeking the pre-deposit from the authorized signatories/Directors, in their respective appeals. The petitioners shall however be bound to make good the pre-deposit as above, in the event the larger Bench judgment is against them. They shall also furnish an undertaking in this regard before the Appellate Court.

99. Petitions stand disposed of accordingly.

100. Pending misc. application(s), if any, shall also stand(s) disposed of accordingly.

101. A photocopy of the order be placed on the connected file(s).

May 29, 2026. **(VINOD S. BHARDWAJ)**
raj arora **JUDGE**

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