



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

138

CRR-1553-2026

Date of decision: 19.06.2026

Kharait Lal

...Petitioner

Versus

Balraj Singh

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Manu Loona, Advocate for the petitioner.

AARADHNA SAWHNEY, J.(ORAL)

1. Challenge in the present petition is to order dated 15.04.2026 passed by learned Additional Sessions Judge, Fazilka, vide which, while suspending the sentence of the appellant awarded on 16.03.2026 (by learned trial Court in *Criminal Complaint No. NACT-188-2020* titled as '*Balraj Singh vs. Kharait Lal*'), petitioner (appellant before the learned Additional Sessions Judge, Fazilka) was directed to deposit 20% of the compensation.

2. Vide judgment of conviction/sentence dated 16.03.2026 passed by learned Judicial Magistrate Ist Class, Fazilka, the petitioner was convicted and sentenced to undergo simple imprisonment for a period of six months for commission of offences punishable under Section 138 of NI Act and was further directed to pay compensation i.e. Rs.2,90,000/- to the complainant. Dissatisfied with the same, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Fazilka. The learned Appellate Court vide order dated 15.04.2026, suspended the sentence of the petitioner subject to depositing of 20% of the compensation amount.

3. Learned counsel for the petitioner contends that imposing condition of deposit of 20% of the compensation amount, while suspending



the sentence of the petitioner, by the first Appellate Court, is too onerous. It is further the submission of learned counsel that the learned first Appellate Court proceeded on an assumption that deposit of minimum 20% of the compensation amount is an absolute rule to entertain the appeal.

Learned counsel next contends that imposing condition of deposit of 20% of compensation amount, while suspending the sentence of the appellant, is not an absolute rule. Towards the end, learned counsel contends that the conditions so imposed by the learned Appellate Court being arbitrary and in violation of the law laid down by the Hon'ble Supreme Court in *Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and others, 2023 (180) SCL 373*, be set aside/modified.

4. Heard. Documents on record perused.

5. Division Bench of this Court in *CRM-M-7799-2025 titled "Coromandel International Vs. Shri Ambica Sales Corporation"* decided on 24.09.2025, while dealing with appeals u/s 138 NI Act, following four questions were framed and answered:-

“(a) Whether imposition of condition to deposit 20% of the compensation amount awarded by the Trial Court, is sustainable or not, while deciding the application for suspension of sentence in an appeal, when the judgment of conviction and order of sentence is still awaiting confirmation?”

“(b) Whether the right of the convict-appellant being on bail in pending appeal, can be subjected to the compliance of direction to pay 20% of the compensation amount under Section 148 of the NI Act?”

“(c) Whether the right of bail can be taken away by the Appellate Court, where final adjudication of the appeal is pending, due to non-compliance of the direction to pay 20% of



the compensation amount under Section 148 of the NI Act, for any justifiable or un-justifiable reason, as discussed in the cases of Jamboo Bhandari and Muskan Enterprises?

(d) Whether it is a pre-condition to deposit 20% of the compensation amount awarded by the Trial Court for getting an appeal decided?"

While answering to the first question, it was held as under:-

18. However, while dealing with the proposition of law, as done in Surinder Singh Deswal's case (supra), in the case of Jamboo Bhandari (supra), Hon'ble Supreme Court enlarged the scope of discretion even to the extent that there can be hundred percent waiving of the deposit of 20% of the compensation/fine amount by the Appellate Court, if the appeal and the other circumstance(s) in its view falls under the category of exception. At the same time, it is necessary to bear in mind that such a situation was visualized by the Hon'ble Supreme Court, especially where the plea of suspension of sentence is to be considered without imposing any condition.

22) The words, "Whether sufficient ground has been made out by the appellants to persuade the Sessions Court not to order any deposit is left entirely to its discretion and satisfaction", used by the Hon'ble Supreme Court in Muskan Enterprises (supra), would certainly include a reduction of the amount below 20%, because if the Appellate Court can exempt the entire 20%, it can also reduce the deposit below 20% depending upon the convict's financial capacity. Any other interpretation would imply that even if a convict is willing to pay some amount, e.g., 15%, 10%, or 5%, and the Appellate Court exempts the entire amount, thereby preventing the complainant from collecting whatever the convict can afford to pay.

36. After analyzing the statutory provision vis-à-vis the judicial precedents referred to above, the answer to the first proposition is that the imposition of condition to deposit 20% of the



compensation amount awarded by the Trial Court, is sustainable, while deciding the application for suspension of sentence in an appeal, when the judgment of conviction and order of sentence is still awaiting confirmation.

While answering the second question, it was held as under:-

40. Answer to the second proposition was once addressed by Surinder Singh Deswal supra [Second case], where the Hon'ble Supreme Court held that when an Appellate Court suspends the sentence on a condition, then the failure to comply with that condition adversely affects the continuation of the suspension.

41. The Appellate Court that has suspended the sentence on a condition, after observing non-compliance, could reasonably hold that the suspension stood vacated due to the non-compliance, and it is the responsibility of the said Appellate Court, which granted the suspension, to consider the non-compliance and make an appropriate decision. Nonetheless, non-compliance with the suspension condition is enough to declare that the suspension has been vacated.

While referring to the third question, it was held that as under:-

51. In the light of the judicial precedents mentioned above, the answer to the third proposition is that the right of bail cannot be taken away by the Appellate Court, where final adjudication of the appeal is pending, due to non-compliance with the direction of paying 20% of the compensation amount under Section 148 of the NI Act. Whenever an Appellate Court directs a deposit under Section 148 of the NI Act and imposes conditions on the suspension of sentence, such conditions must be just conditions.

While referring to the fourth question, it was held that as under-

72. When the convict challenges the conviction, sentence, or compensation by filing an appeal, the requirement to deposit 20% or more of the fine amount or compensation is not an



absolute rule and is subject to exceptions mentioned in Jamboo Bhandari (supra) and Muskan Enterprises (supra), it can be reduced to below the statutory minimum of 20% or even waived in exceptional cases by assigning reasons.

73. The statutory intention under Section 148 NIA is that when the complaint has been allowed, which means, the stand taken by the complainant regarding the dishonor of a cheque, has been substantiated in the trial, and such a convict challenges that judgment by filing an appeal, then during the pendency of appeal, i.e. if the appeal is not decided within 60 days, extendable by 30 days, then the convict might be compelled to deposit the amount as was directed, by taking recourse to Section 395 BNSS, 2023.

74. Given the above, the deposit of a minimum 20% amount is not an absolute rule.

76. Therefore, the simplest solution to all these issues is that whenever the deposits are expensive than the liberty, and the Appellate Courts are convinced that the convicts are not in a position to deposit and likely to forego their liberty even when the first appeal is yet to be decided, the Appellate Courts must make efforts to prioritize hearing appeals filed against the convictions under Section 148 NI Act and decide those preferably within sixty days of filing, and not later than ninety days, which clearly aligns with the legislators' intentions. However, the time of sixty days should be extended to the extent to which the decision of the appeal is delayed because of the complainant.

6. In view of the law laid down by ***Coromandel International (supra)***, learned Appellate Court was required to consider as to whether the present case falls within the exceptions or not. No specific reasons have been assigned while imposing the condition of deposit of 20% of the amount. The impugned order is, therefore, not sustainable. Present revision petition is



disposed of with a direction to learned Appellate Court to re-examine the case afresh, after affording an opportunity to the petitioner to address his arguments regarding exceptional circumstances warranting waiver of requirement to deposit 20% of the compensation awarded by the learned trial Court.

(AARADHNA SAWHNEY)
JUDGE

19.06.2026
Hemant

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