

2026:PHHC:024857



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

CRM-M-38548-2025

Arjun Walia

....Petitioner

Versus

Tarun Batra and another

....Respondents

Date of reserve: February 12, 2026

Date of Pronouncement/ Decision: February 17, 2026

Date of Uploading: February 17, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vishal Sharda, Advocate for the petitioner.

Mr. Yashvardhan Goyal, Advocate for respondent No.1.

Mr. Gurmeet Singh, AAG Haryana.

SUMEET GOEL, J.

The present petition has been preferred by the petitioner, under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking quashing of the impugned order dated 04.06.2025 (Annexure P-2) passed by learned Sessions Judge, Nuh, in CRA-66-2025 dated 04.06.2025 (complaint NI-2-2017) instituted on 07.01.2017, decided on 09.05.2025), vide which, the petitioner was directed to deposit 20% of the total compensation amount awarded by the learned trial Court.

2. Learned counsel for the petitioner has, inter alia, submitted that in a complaint case under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'NI Act'), instituted at the instance of respondent No.1 –

complainant, in respect of dishonour of the cheque in question, the petitioner

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was released on bail by the trial Court. However, vide judgment and order dated 09/12.05.2025 (Annexure P-1) passed by the learned Judicial Magistrate First Class, Ferozepur Jhirka, the petitioner was convicted and sentenced to undergo simple imprisonment for a period of 10 months and was directed to pay compensation to the tune of Rs.80,00,000/-, and in default thereof, to further undergo simple imprisonment for a period of 03 months. Learned counsel has submitted that the petitioner preferred an appeal against the aforesaid judgment/order, and the learned Additional Sessions Judge, Nuh, vide impugned order dated 04.06.2025 (Annexure P-2), while admitting the appeal, directed the petitioner to deposit 20% of the compensation amount as a pre-condition for suspension of sentence. Learned counsel has submitted that earlier petition filed by the petitioner was dismissed as withdrawn with liberty to file afresh on the same cause of action after appending further material, including material pertaining to medical condition of the petitioner, vide order dated 09.07.2025, passed by this Court.

2.1. Learned counsel has argued that the impugned order has been passed without assigning any cogent or reasoned findings and without due consideration of the petitioner's advanced age, being approximately 69 years, and his adverse medical condition (medical reports are appended as Annexure P-3 with the petition in hand). Learned counsel has argued that the petitioner is not in a position to deposit the said amount of 20% of the compensation amount as awarded by the trial Court on account of financial difficulty coupled with his deteriorating medical condition. Learned counsel has further argued that no adequate or effective opportunity of hearing was afforded to the petitioner before passing of the impugned order dated

04.06.2025, whereby the condition for deposit of 20% of the compensation amount has been stipulated by the learned Sessions Court. Learned counsel has further iterated that imposition of such a condition of deposit of 20% of the compensation amount, as awarded by the learned trial Magistrate, would virtually operate as a fetter upon the statutory right of appeal of the petitioner. Thus, it has been submitted that the impugned order be quashed, to the limited extent of the condition requiring deposit of 20% of the compensation amount awarded by the trial Court. To buttress his arguments, learned counsel relies upon the *ratio decidendi* of the judgment of the Hon'ble Supreme Court titled as ***Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. & Ors., 2023 (10) SCC 446.***

3. On the other hand, learned counsel for respondent No.1 has opposed the grant of the petition in hand by arguing that the allegations against the petitioner are serious in nature, inasmuch as the cheque issued by the petitioner towards discharge of his liability of repayment of the loan amount in question was dishonoured with the remarks "Exceeds Arrangement", and despite repeated demands made by the complainant, the petitioner failed and refused to repay the said amount. Learned counsel has further argued that the impugned order passed by the learned Sessions Judge does not suffer from any illegality, infirmity or perversity and, thus, does not warrant interference by this Court. On the strength of these submissions, dismissal of the petition in hand is entreated for.

4. Learned State counsel has submitted that the State is not a contesting party in the present matter, the proceedings arising out of a complaint under Section 138 of the NI Act.

5. I have heard learned counsel for the petitioner as well as learned counsel for respondent No.1 and have perused the paper-book.

6. Section 148 of the Negotiable Instruments Act, as inserted by the Negotiable Instruments (Amendment) Act, 2018, empowers the appellate Court to direct the appellant-accused to deposit a minimum of 20% of the fine or compensation awarded by the trial Court, as a condition for suspension of sentence during the pendency of the appeal. The provision uses the expression “*may order the appellant to deposit such sum which shall be a minimum of twenty per cent*”, thereby conferring discretion upon the appellate Court, though subject to the statutory minimum prescribed.

The legislative intent behind insertion of Section 148 is to address the mischief of prolonged litigation in cheque dishonour cases and to ensure that the complainant is not deprived of the fruits of the decree during pendency of appellate proceedings. The provision seeks to strike a balance between the statutory right of appeal available to the accused and the right of the complainant to expeditious and effective recovery of compensation. The amount so deposited may, subject to conditions, be released to the complainant during the pendency of the appeal, thereby reflecting the legislative object of providing timely interim relief and discouraging frivolous or dilatory appeals.

At this juncture, it would be apposite to refer herein to a judgment passed by the Hon’ble Supreme Court in the judgment titled as ***Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. & Ors.*** 2023 (10) SCC 446; relevant whereof reads as under:

“6. What is held by this Court is that a purposive interpretation should be made of Section 148 of the N.I. Act. Hence, normally, Appellate Court will be justified in imposing the condition of deposit as provided in Section 148. However, in a case where the Appellate Court is satisfied that the condition of deposit of 20% will be unjust or imposing such a

condition will amount to deprivation of the right of appeal of the appellant, exception can be made for the reasons specifically recorded.

7. Therefore, when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an 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.

8. The submission of the learned counsel appearing for the original complainant is that neither before the Sessions Court nor before the High Court, there was a plea made by the appellants that an exception may be made in these cases and the requirement of deposit or minimum 20% of the amount be dispensed with. He submits that if such a prayer was not made by the appellants, there were no reasons for the Courts to consider the said plea.

9. We disagree with the above submission. When an accused applies under Section 389 of the Cr.P.C. for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the Court has to consider whether the case falls in exception or not.”

7. The convict bears the onus of demonstrating special, exceptional or compelling circumstances to persuade the appellate Court to waive or relax the statutory requirement of deposit under Section 148 of the Negotiable Instruments Act. In the absence of such exceptional circumstances, the legislative mandate ordinarily prevails. Considering the legislative intent behind the provision—namely, to expedite the recovery process and to mitigate the hardship caused to the complainant due to protracted appellate proceedings—it is both reasonable and in consonance with statutory purpose for the appellate Court to impose the condition of deposit when an appeal is preferred against a conviction under Section 138 of the NI Act. The provision was enacted to remedy the mischief of undue delay in cheque dishonour cases and to ensure that the successful complainant is not left remediless during the pendency of appeal.

Such a requirement ensures that the complainant is not unjustly deprived of the compensation awarded by the trial Court, while at the same

time preserving the accused's statutory right of appeal. It further acts as a deterrent against frivolous, vexatious or dilatory appeals preferred merely to stall execution of the sentence or compensation order. Under Section 148 of the Negotiable Instruments Act, the direction to deposit a minimum of 20% of the compensation amount constitutes the general rule, and departure therefrom can only be justified upon the existence of exceptional circumstances duly demonstrated before the appellate Court. Thus, while the provision vests discretion in the appellate Court, such discretion is structured and guided by the statutory minimum prescribed therein.

The Hon'ble Supreme Court in a judgment titled as ***Muskan Enterprises & Anr. Vs. The State of Punjab, 2024 INSC 1046***, has held thus:

“XXXXXXXXXXXXXXXXXX. While there can be no gainsaying that normally the discretion of the Appellate Court should lean towards requiring a deposit to be made with the quantum of such deposit depending upon the factual situation in every individual case, more so because an order under challenge does not bear the mark of invalidity on its forehead, retention of the power of such court not to order any deposit in a given case (which in its view and for the recorded reasons is exceptional) and calling for exercise of the discretion to not order deposit, has to be conceded. XXXXXXXXXXXXXXXXXXXX.”

8. *Ergo*, the ratio decidendi of the judgments of the Hon'ble Supreme Court in cases of Jamboo Bhandari (supra) and Muskan Enterprises (supra) clearly postulates that the appellate Court possesses limited and structured discretion to waive or modify the condition of deposit under Section 148 of the Negotiable Instruments Act, and that too only upon the existence of exceptional and adequately demonstrated circumstances. Such circumstances must be established through credible, cogent and substantiated material placed on record by the appellant-convict. In the absence of such compelling material, it would be appropriate and in consonance with the statutory mandate for the appellate Court to impose the said condition. This approach ensures adherence to the legislative intent,

discourages frivolous or dilatory appeals, and safeguards the legitimate interests of the complainant.

9. In the present case, the petitioner has specifically pleaded that he is a senior citizen aged about 69 years and is suffering from serious medical ailments, which, according to him, impair his financial capacity and ability to comply with the condition imposed. Copies of the relevant medical records, purportedly substantiating the said plea, have been appended as Annexure P-3 to the present petition.

9.1. Further, the impugned order dated 04.06.2025 passed by the learned Sessions Judge, reads thus:

“Criminal appeal has been received by way assignment. This appeal has been filed by the convict-Arjun Walia. Along with appeal there is an application under Section 389(2) CrPC/430 BNSS, learned counsel for the appellant has requested for suspension of sentence, he urged that learned trial Court had obtained the bail bonds under Section 437(2) CrPC/481 BNSS, and the order is valid up till 13.06.2025. He urged that there are arguable points in this appeal, and therefore, the appeal be admitted and lastly, he prayed for suspension of sentence. Heard.

Without commenting anything on merits, appeal is admitted. Appellant is directed to furnish bail bonds and surety bonds to the satisfaction of this Court, in the meanwhile, his conviction shall remain suspended, subject to making 20% of the compensation amount in view of ‘Ajju mines’ case. Be listed for 27.08.2025.”

A perusal of the aforesaid impugned order reveals that the same is bereft of any reasoning while directing the petitioner to deposit 20% of the compensation amount awarded by the learned trial Court. This Court is of the considered view that the petitioner has placed on record material indicating circumstances beyond his control which *ex facie* render him unable to deposit 20% of the compensation amount, particularly in view of his advanced age and medical condition, duly supported by medical records. Coupled with the fact that the impugned order does not record any reasons while imposing the aforesaid condition, this Court is satisfied that the

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present petition deserves to be allowed to the limited extent of modification of the condition relating to deposit of compensation.

10. Hence, keeping in view the facts and circumstances of the present case, as aforesaid, it is ordained thus:

- i) The impugned order dated 04.06.2025 (Annexure P-2) passed by the learned Additional Sessions Judge, Nuh is modified only to the extent of setting aside the condition of deposit of 20% amount of compensation as awarded by the learned trial Court, by the petitioner;
- ii) The Appellate Court is directed to decide the main appeal, pending before it, at the earliest, preferably within a period of 04 weeks from the date of receipt/ production of copy of this order;
- iii) Pending application(s), if any, shall also stand disposed off;
- iv) Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the appeal pending before the learned Sessions Court.

(SUMEET GOEL)
JUDGE

February 17, 2026
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No