SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			C528/2094/2026 Nirbhaya Saini --Applicant **Versus** Neeru Agarwal --Respondent **Hon'ble Alok Mahra, J.** Mr. S.K. Shandilya and Ms. Nancy Singh, learned counsel for the applicant. 2. The present application under Section 528 of the B.N.S.S. has been filed seeking quashing of the order dated 06.04.2026 passed by the learned 1st Additional District and Sessions Judge, Roorkee, District Haridwar, in Criminal Appeal No. 36 of 2026, whereby the applicant has been directed to deposit 10% of the fine/compensation amount awarded by the learned trial court as a condition for suspension of sentence and grant of bail. 3. Learned counsel for the applicant would submit that respondent no. 2/complainant instituted Complaint Case No. 856 of 2015 against the applicant under Section 138 of the Negotiable Instruments Act, 1881 (in short, 'the N.I. Act'), before the learned Additional Chief Judicial Magistrate, Roorkee, District Haridwar. He would further submit that, vide judgment and order dated 09.03.2026, the learned trial

			court convicted the applicant under Section 138 of the N.I. Act and sentenced him to undergo six months' simple imprisonment and to pay a fine of ₹31,00,000/-; that, feeling aggrieved by the aforesaid judgment and order, the applicant preferred Criminal Appeal No. 36 of 2026 before the learned 1st Additional District and Sessions Judge, Roorkee, District Haridwar. 4. He would further submit that during the pendency of the appeal, the applicant moved an application seeking suspension of execution of the judgment and sentence dated 09.03.2026 and grant of bail; that, the learned appellate court, vide order dated 06.04.2026, suspended the sentence and granted bail to the applicant, subject to the condition that he deposit 10% of the fine amount imposed by the learned trial court. Learned counsel would submit that the applicant is aggrieved only by the aforesaid condition, and the remaining part of the impugned order is not under challenge in the present application. 5. Learned counsel would further submit that the discretion vested in the appellate court under Section 148 of the N.I. Act is required to be exercised judiciously and in accordance with law; that, the impugned order has been passed without assigning any reasons for imposing the condition requiring the applicant to deposit 10% of the fine amount; that, the appellate court was

			required to consider the relevant facts and circumstances of the case before imposing such a condition and could not have done so mechanically. 6. Learned counsel would further submit that Section 148 of the N.I. Act empowers the appellate court to direct the appellant to deposit a sum which shall be a minimum of 20% of the fine or compensation awarded by the trial court. He would contend that the exercise of such power must be in conformity with the statutory provision and the law laid down by the Hon'ble Supreme Court; that, while considering an application for suspension of sentence under Section 389 of the the Cr.P.C., the appellate court is required to exercise its discretion judiciously and record appropriate reasons for the conditions imposed, particularly where such conditions are challenged as being arbitrary or excessive. 7. Learned counsel would further submit that the condition imposed by the learned appellate court is harsh and unsustainable in law, as no reasons have been assigned in support thereof. In support of his submissions, he has placed reliance upon the judgment of the Hon'ble Supreme Court in *Muskan Enterprises and Another v. The State of Punjab and Another*, reported in (2024) 20 SCC 85, wherein the Hon'ble Supreme Court considered the scope of the appellate court's power under

			Section 148 of the N.I. Act and observed that, once the appellate court considers a deposit necessary, it may, in an appropriate case, direct the appellant to deposit an amount exceeding 20% of the fine or compensation awarded by the trial court, therefore, the impugned order deserves to be set aside and the matter reconsidered by the learned appellate court in accordance with law. 8. Heard learned counsel for the applicant and perused the material available on record. 9. Section 148 of the N.I. Act specifically empowers the appellate court, in an appeal against conviction under Section 138 of the N.I. Act, to direct the appellant to deposit a sum which shall be a minimum of 20% of the fine or compensation awarded by the trial court. The provision further stipulates that such deposit shall be made within the period prescribed therein, subject to the statutory power of the appellate court to extend the period for sufficient cause. 10. In the present case, the learned appellate court, while suspending the sentence and granting bail to the applicant, directed him to deposit 10% of the fine amount imposed by the learned trial court. The aforesaid condition, being below the statutory minimum prescribed under Section 148 of the N.I. Act, requires reconsideration in the light of the applicable statutory provision and

			the law laid down by the Hon'ble Supreme Court. 11. Accordingly, the order dated 06.04.2026 passed by the learned 1st Additional District and Sessions Judge, Roorkee, District Haridwar, in Criminal Appeal No. 36 of 2026, is hereby set aside to the extent it imposes the condition regarding deposit of 10% of the fine amount. The matter is remitted to the learned appellate court to reconsider the question of deposit, in accordance with Section 148 of the N.I. Act and the law laid down by the Hon'ble Supreme Court, after affording an opportunity of hearing to the parties. The learned appellate court shall pass an appropriate order in accordance with law. 12. It is made clear that the remaining part of the impugned order, whereby the sentence has been suspended and the applicant has been granted bail, shall remain unchanged, subject to the fresh order to be passed by the learned appellate court in accordance with law. 13. In view of the foregoing discussion, the present C-528 application stands allowed in the above terms. 14. Pending applications, if any, also stand disposed of. **(Alok Mahra, J.)** 27.10.2026 Mamta MA MTA RANI Digitally signed by MAMTA RANI DN: c=IN, o=HIGH COURT OF UTTARAKHAND, ou=HIGH COURT OF UTTARAKHAND, 2.5.4.20=6a812005bebfcf46f244f3e584af1449e430ef900bf09a6d67ebbd642671329b, postalCode=263001, st=Uttarakhand, serialNumber=5de1751a4f1d9cabfd54852c9e68911ca8b66dd26690a191648ab5d8dd004ef0, cn=MAMTA RANI Date: 2026.10.28 11:17:45 +05'30'