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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010174522026**

\+ CRL.M.C. 3128/2026, CRL.M.A. 12704/2026

MOHD. SHABBIR .....Petitioner

Through: Mr. Sidhant Kumar, Mr. Sahil Tagotra, Ms. Shreya Kasera, Mr. Abhishek Pandey, Advs.

versus

YAMAHA MOTORS INDIA SALES PVT. LTD. AND ORS .....Respondent

Through: Mr. Praveen Kumar Singh, Mr. Archit Dwiwedi, Advs. for R3

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% 29.10.2026

1. The present petition has been filed by the petitioner under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, assailing the order dated 21.01.2026, passed by the learned Additional Sessions Judge-07, Patiala House Courts, New Delhi, in Criminal Appeal No. 42 of 2026.

2. The petitioner herein, a director of the respondent no. 2 (M/s. Bukhari Enterprises Pvt. Ltd.), was convicted under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter "NI Act") in C.C. No. 1708/2022, in respect of dishonour of two cheques bearing Nos. 661331 and 661339, both dated 07.05.2008, for Rs. 20,00,000 and Rs. 30,00,000, respectively (aggregating to Rs. 50,00,000) drawn on State Bank of India, Bilaspur. Consequently, the petitioner was sentenced on 10.12.2025 to undergo simple imprisonment for two years and to pay compensation of Rs.1,00,00,000, in default whereof to undergo simple imprisonment for four (4) months.

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3. By order dated 21.01.2026 in Criminal Appeal No. 42 of 2026, the learned Additional Sessions Judge suspended the sentence subject to deposit of 20 per cent of compensation. The operative direction therein reads as under:

> "*Application under Section 389 Cr.P.C./ 430 BNSS moved on behalf of the appellant is allowed.* ***Execution of the sentence upon the appellants is suspended subject to the condition that the appellants shall deposit 20% of the compensation amount awarded by the Ld. Trial Court within 60 days from today with Ld. Trial Court****. Appellant No.2 and 3 are admitted to bail till the disposal of appeal on furnishing a personal bond in a sum of Rs. 50,0000/- with one surety of like amount to the satisfaction of Ld. Trial Court.*"
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> (emphasis supplied)

4. On the same date, *i.e.*, 21.01.2026, an application seeking exemption from making the deposit under Section 148 of the NI Act was moved on behalf of the appellants therein, which was dismissed by the Ld. Additional Sessions Judge, *vide* the impugned order, in the following terms:

> *"Submissions heard.* ***No compelling circumstance is mentioned in the application so that convicts may be exempted from depositing the interim compensation amount.*** *Hence, present application stands dismissed as* ***there is no provision or law vide which appellants will be exempted for depositing any deposit*** *under section 148 NI Act."*
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> (emphasis supplied)

5. Mr. Siddhant Kumar, learned counsel for the petitioner, submits that the cheques were drawn by the company and signed by another director (Sh. H.A. Karin), who is since deceased (on 28.11.2012). It is submitted that the petitioner neither signed nor issued the cheque and that the petitioner, not being the drawer, is entitled to exemption from making the deposit. In this

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regard, reliance is placed upon the decision of the Supreme Court in ***Bijay Agarwal v. Medilines*, 2024 INSC 918**, wherein it has been held as under:

> "*13. A scanning of Sections 143A and 148 would reveal that the former deals with the power of the Court trying an offence under Section 138 of the NI Act to direct the drawer of the cheque to pay interim compensation to the complainant whereas the latter Section deals with the power of the Appellate Court in an appeal by the drawer against the conviction under Section 138 to the appellant to deposit such sum which shall be a minimum of 20% of the fine or compensation awarded by the trial Court. The proviso to Section 148(1) would further reveal that the amount payable thereunder shall be in addition to any interim compensation paid by the appellant under Section 143A, NI Act.* ***Thus, a scanning of both the Sections would reveal that the said sections empower to issue such directions only to the 'drawer' of the cheque.*** *...*
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> ***
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> *17.* ***In the decision in 'Jamboo Bhandari v. Madhya Pradesh State Industrial Development Corporation Limited and Ors.' [(2023) 10 SCC 446] this Court held that an Appellate Court in an appeal against conviction under Section 138, NI Act, could not place a condition to deposit an amount invoking the power under Section 148(1), NI Act, mechanically without considering whether the case falls within exceptional circumstances. In view of the said exposition of law, the Appellate Court ought to have considered the aforesaid aspects as it would certainly be an exceptional circumstance to exempt the appellant who is not the 'drawer' of the cheque concerned to deposit the amount payable under Section 148(1) by an appellant who is the 'drawer' of the cheque.*** *In the case on hand, the High Court has failed to consider these crucial aspects in the light of the dictum laid down by this Court in the decisions referred supra while considering the application for suspension of sentence for the conviction under Section 138 of the NI Act in the pending appeal.*"
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> (emphasis supplied)

6. The plea that the petitioner has not signed the cheques, and that the appellants were dormant directors and that they had neither issued the

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cheques nor had any role in the day-to-day business of the company, was specifically taken in the Exemption Application, which is appended as Annexure P-9. The same has evidently not been considered in the impugned order. Instead, the impugned order goes on to hold that there is no provision or law for exemption. The said observation, especially in light of the above *dictum*, is not altogether accurate. The legal position is well-settled that exemption may be granted in exceptional cases for reasons.

7. Considering the circumstances, the plea of the petitioner regarding existence of exceptional circumstances, requires consideration on facts.

8. In the circumstances, the order dated 21.01.2026 to the extent it dismisses the exemption application *qua* the petitioner is set aside. The application is remitted to the learned Additional Sessions Judge to be decided *qua* the petitioner by way of a reasoned order within a period of four weeks from today. This would be subject to the petitioner appearing in person before the learned trial Court on each and every date of hearing. If he fails to appear, this order shall stand recalled, and the learned trial Court shall proceed in accordance with law.

9. Subject to the petitioner appearing before the trial Court (subject to outcome of any application for exemption), no further coercive steps shall be taken against the petitioner. Let the matter be listed before the concerned Additional Sessions Judge within a period of two weeks from today.

10. The petition is disposed of in the above terms. Pending application also stands disposed of.

SACHIN DATTA, J

OCTOBER 29, 2026/*uk/vk*

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