CNR No: PHHC011316342026
2026:PHHC:110195

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

147 CRM-M-44135-2026
Date of Decision: 11.08.2026

Hakam Singh …Petitioner

V/s

State of Punjab and another …Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Gagandeep Kaur, Advocate, for the petitioner.

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VIKRAM AGGARWAL, J (ORAL)

The instant petition instituted under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short the "BNSS") assails the order dated 15.06.2026 (Annexure P-3) passed by the Court of Additional Sessions Judge, Sangrur whereby, in the criminal appeal filed by the petitioner, sentence was suspended, subject to deposit of 20% of the compensation amount ordered by the trial Court.

2. Vide judgment of conviction and sentence dated 25.05.2026 (Annexure P-1), the Court of Judicial Magistrate Ist Class, Dhuri, convicted the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short the "NI Act") and sentenced him to undergo rigorous imprisonment for a period of two years. Compensation of Rs.8,12,000/- (cheque amount) was also ordered to be paid to the complainant.

3. Aggrieved by the said decision, an appeal (Annexure P-2) was preferred, which was accompanied by an application for the grant of bail.

4. Vide the impugned order dated 15.06.2026, the Court of Additional Sessions Judge, Sangrur, issued notice of the appeal to the respondent and bail was granted to the petitioner subject to the condition of depositing 20% of the compensation amount within a period of 60 days.

5. Learned counsel for the petitioner submits that the said order is illegal and arbitrary and that the judgment of the Apex Court in the case of ***Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. & Others (2023) 10 SCC 446*** was not followed in letter and spirit. It has been submitted that the petitioner had duly apprised the first appellate Court that the petitioner is a retired pensioner with liability to pay house loan installments of Rs.12,000/- per month and under the circumstances, he would not be in a position to deposit 20% of the compensation/fine amount as contemplated under Section 148 of the NI Act. Learned counsel submits that the severe financial hardship being faced by the petitioner was not considered by the first appellate Court while passing the impugned order.

6. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

7. Vide judgment of conviction and order of sentence dated 25.06.2026 passed by the Court of Judicial Magistrate Ist Class, Dhuri, the petitioner was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short the "NI Act") and was sentenced to undergo rigorous imprisonment for a period of two years. Compensation of Rs.8,12,000/- (cheque amount) was also ordered to be paid to the complainant.

8. Section 148 of the NI Act lays down:-

> ***"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."***

9. The aforesaid condition of deposit of 20% was considered by the Apex Court in the case of ***Jamboo Bhandari*** (supra). After referring to the judgment of the Apex Court in the case of ***Surinder Singh Deswal alias Colonel S.S. Deswal and others v. Virender Gandhi (2019) 11 SCC 341***, the Apex Court held that a purposive interpretation should be made of Section 148 of the NI Act. It was held that normally, an appellate Court would be justified in imposing the condition of deposit as provided in Section 148. However, in a case where it was satisfied that the condition of deposit of 20% would be unjust or imposing such a condition would amount to deprivation of the right of appeal of the appellant, an exception could be made for reasons to be specifically recorded. It was also held by the Apex Court that when an accused applies under Section 389 Cr.P.C. of 1973 for suspension of sentence, he normally applies for the same without any condition and, therefore, when a blanket order is sought by the appellant, the Court has to consider whether the case falls in exception or not. It was held that the Courts do not have to proceed on the premise that deposit of 20% amount is an absolute rule which does not accommodate any exception;

> ***"6. What is held by this Court is that a purpose interpretation should be made of Section 148 of the NI 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 rights 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., 1973 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.***
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> ***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.***
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> ***9. We disagree with the above submission. When an accused applies under section 389 of the Cr.P.C., 1973 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."***
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> ***10. In these cases, both the Sessions Courts and the High Court have proceeded on the erroneous premise that deposit of minimum 20% amount is an absolute rule which does not accommodate any exception."***

10. Reverting to the present case, the first appellate Court duly considered the matter in its entirety, including the submissions made by the learned counsel for the appellant before it and then held that the imposition of condition of deposit of 20% of the amount of compensation could not be said to be unjust. Even before this Court, learned counsel for the petitioner has not been able to point out as to how the said condition would be unjust. It has merely been stated that the petitioner is a pensioner and has other liabilities as well, including payment of installments of house loan. However, nothing has been produced on record to show that the financial condition of the petitioner is poor or that other financial liabilities do not permit the petitioner to pay 20% of the compensation amount as ordered by the first appellate Court.

11. Under the circumstances, no illegality is found with the impugned order, warranting interference by this Court.

12. For the foregoing reasons, the present petition is found to be devoid of merit and is accordingly dismissed.

Pending application(s), if any, also stands disposed of.

(VIKRAM AGGARWAL)
JUDGE

August 11, 2026
vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No