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

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Date of decision : 08.09.2025

M/s Gupta Associates & others

..... Petitioners

VERSUS

M/s GBTL Limited

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Munish Kumar Garg, Advocate and
Mr. Tanuj Goyal, Advocate for the petitioners.

SURYA PARTAP SINGH, J.

1. The present petition has been filed by the petitioners under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), against the order dated 21.03.2025 (Annexure P-2) passed by learned Additional Sessions Judge, Bhiwani (hereinafter referred to as 'Appellate Court'), whereby the application for suspension of sentence, moved by the petitioners, has been allowed and the sentence awarded to the petitioners, for the commission of offence punishable under Section 138 of Negotiable Instruments Act (hereinafter referred to as 'NI Act'), has been suspended, subject to the condition of furnishing bonds in the sum of Rs.50,000/- with one surety in the like amount. However, the learned Appellate Court has imposed further condition and directed the petitioners to



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deposit of 20% of the amount of compensation, assessed by the learned trial Court, within a period of 60 days.

2. The record reveals that the petitioners faced a trial in a complaint case titled as 'M/s GBTL Limited Vs. M/s Gupta Associates. & ors.' for the abovementioned offence and the abovementioned trial culminated into conviction of the petitioners. The learned trial Court sentenced the petitioners to undergo simple imprisonment for a period of one year and pay compensation of Rs.41,85,000/-.

3. Aggrieved of the abovementioned order, when the petitioners filed an appeal before the learned Appellate Court, the learned Appellate Court by virtue of impugned order dated 21.03.2025, suspended the sentence awarded to the petitioners. However, it imposed a condition in view of Section 148 of the Negotiable Instruments (Amendment) Act, 2018 and directed the petitioners to deposit an amount equivalent to 20% of the amount of compensation within a period of 60 days.

4. Heard.

5. Learned counsel for the petitioners contends that the petitioners had moved an application for exemption from his liability to pay 20% of the cheque amount. However, the said application was dismissed by the learned Appellate Court on the ground that the said application is not reasonable. He further contends that while imposing the abovementioned condition, the learned Appellate Court did not give any opportunity to the petitioners to explain his hardship and that without giving an opportunity of being heard, the abovementioned harsh condition has been imposed. According to learned



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counsel for the petitioners, the learned Appellate Court has failed to appreciate that the learned trial Court has committed a grave error when against a cheque amount of Rs.27,86,481.60, it directed to pay compensation of Rs.41,85,000/- which in no way, can be termed to be justified.

6. While referring to the principles of law laid down by the Hon'ble Supreme Court in a case of '*Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. and others*', learned counsel for the petitioners has contended that the learned Appellate Court was duty bound to give an opportunity to the petitioners to explain the circumstances and pass a reasonable order with regard to deposit of compensation or any part thereof. According to learned counsel for the petitioners, since any opportunity of being heard was not afforded to the petitioners, by the learned Appellate Court, the instant case may be remanded back to the learned Appellate Court for passing a fresh order after hearing the petitioners.

6. I have perused the record carefully.

7. A perusal of record shows that in this case, against the cheque amount of Rs.27,86,481.60, the compensation awarded by the learned trial Court is Rs.41,85,000/-. If the condition imposed by the learned Appellate Court, i.e. deposit of 20% of amount of compensation, is to be complied with, it may create hardship for the petitioners. In addition to above, it is also relevant to note that the abovesaid order has been passed without giving an opportunity of being heard to the petitioners.

8. Without issuing any notice to the respondent, lest it may delay the proceedings, the present petition is accepted. The impugned order is set



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aside. The learned Appellate Court is directed to pass a fresh order in the light of the law explained by the Hon'ble Supreme Court in *Jamboo Bhandari's* case (*supra*).

9. Since this order has been passed in the absence of the respondent, the respondent will be at liberty to approach this Court, in case he is aggrieved by this order.

(SURYA PARTAP SINGH)
JUDGE

08.09.2025

monika

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No