



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

114

CRM-M-50979-2025

Date of decision: 12.09.2025

Devender Yadav

...Petitioner

Versus

Rajesh Kumar Yadav

...Respondent

**CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY**

Present : Mr. Neeraj Gupta, Advocate for the petitioner.

\*\*\*\*\*

**AARADHNA SAWHNEY, J.(ORAL)**

1. Challenge in the present petition is to order dated 17.05.2025 passed by learned Additional Sessions Judge, Gurugram, vide which, while suspending the sentence of the appellant awarded on 18.04.2025 (by learned trial Court in *Criminal Complaint No. NACT-3468-2018* titled as '*Rajesh Kumar Yadav vs. Devender Yadav*'), petitioner (appellant before the learned Additional Sessions Judge) was directed to deposit 20% of the compensation.

2. Vide judgment of conviction dated 15.04.2025 and order of sentence dated 18.04.2025 passed by learned Judicial Magistrate Ist Class, Gurgaon, the petitioner was convicted and sentenced to undergo simple imprisonment for a period of six months for commission of offence punishable under Section 138 of NI Act and was further directed to pay compensation i.e. Rs.66,00,000/- to the complainant. Thereafter, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Gurugram. The learned Appellate Court vide order dated 17.05.2025, suspended the sentence of the petitioner subject to depositing of 20% of the compensation amount.



3. Learned counsel for the petitioner *inter alia* contends that the learned Appellate Court failed to appreciate the facts of the case in the correct perspective and imposed the condition of deposit of 20% of the compensation amount. This condition, in the peculiar facts of the present case and delicate medical condition of the petitioner is too harsh and arbitrary. Despite the fact that it was submitted before the learned First Appellate Court that petitioner who otherwise has a good case on merits, has no financial means to deposit such a huge amount, is surviving on the financial help being rendered by the others. Continuing further, learned counsel contends that petitioner had suffered a paralytic attack on 10.04.2017, was admitted to Artemis Health Institute, Gurugram. He needed surgical intervention and since then has not been able to perform even his day-to-day chores. Copy of medical record of the petitioner appended along with the case file as Annexure P-12, has also been referred to by learned counsel.

It is further the submission of learned counsel that to ascertain the physical disability of petitioner, a Board of Doctors was constituted, who after examining the petitioner opined that petitioner is suffering from 70% permanent disability in relation to his Right Upper limb and Lower limb. Disability Certificate dated 18.01.2024, issued by Civil Surgeon, Gurugram (appended as Annexure P-13), has also been referred to by learned counsel. Learned counsel contends that in case a sympathetic view in the light of above submission is not taken in favour of the petitioner, his appeal would be rendered infructuous. It has, thus, been urged that the conditions so imposed by the First Appellate Court being arbitrary and in violation of the law laid down by the Hon'ble Supreme Court in *Jamboo Bhandari vs. M.P.*



***State Industrial Development Corporation Ltd. and others, 2023 (180) SCL 373***, be set aside/modified.

4. Heard. Documents on record perused.
5. The question as to whether deposit of 20% of the awarded compensation amount, is mandatory while suspending the sentence, was considered by the Hon'ble Supreme Court in ***Jamboo Bhandari (supra)***, wherein it was held 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.*

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.”*

6. In view of the law laid down by ***Jamboo Bhandari (supra)***, learned First Appellate Court was required to consider as to whether the present case falls within the exceptions, as also in the light of medical condition of the petitioner, imposing a condition of deposit of 20% amount, while suspending the sentence of petitioner would be justified or not. Present petition is disposed of with a direction to learned First Appellate Court to re-examine the case in the light of submissions advanced by learned counsel for the petitioner, as also the medical record of the petitioner, after affording an opportunity to the petitioner to address his arguments.

**(AARADHNA SAWHNEY)**  
**JUDGE**

**12.09.2025**

Hemant

Whether speaking/reasoned : Yes / No  
Whether reportable : Yes / No