



151 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-34714 of 2025

Date of decision: 07.07.2025

Sumer Singh @ Sumer Kumar

.....Petitioner

Versus

The Fatehabad Central Cooperative Bank Limited and Another

.....Respondents

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present: Mr. Naresh Kumar Ganga, Advocate
for the petitioner.

H.S. GREWAL J. (Oral)

The instant petition has been filed under Section 528 of BNSS against order dated 13.04.2023 passed by learned Additional Session Judge, Fatehabad in Criminal Appeal No.201 of 2023 titled as 'Sumer Vs. FCCB', vide which the appellant-accused has been directed to deposit 20% of compensation amount within a period of 60 days from the date of the said order.

2. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as learned appellate Court, while giving such direction, failed to consider the fact that the deposit of 20% of the compensation amount was not absolute requirement for suspension of sentence and this condition was to be imposed in exceptional circumstances. Hence, it is urged that the impugned order passed by the learned appellate Court is liable to be set aside.

3. Notice of motion.

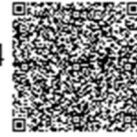


4. Mr. Kamalpreet Bawa, DAG, Punjab, accepts notice on behalf of the respondent-State.

5. On a perusal of the record, it is revealed that the learned trial Court, vide judgment of conviction dated 14.03.2023, passed in a complaint filed under Section 138 of N.I. Act, had held the petitioner guilty for commission of offence punishable under the aforementioned section. The petitioner challenged the order passed by the trial Court by filing an appeal before the learned appellate Court and the appellate Court, vide impugned order dated 13.04.2023, and further while considering prayer for suspension of order of compensation awarded by the trial Court has directed the appellant-accused to deposit 20% of the compensation amount within a period of 60 days from the date of passing of the said order.

6. Reliance has been placed upon judgment of Hon'ble Supreme Court in case '**Rakesh Ranjan Shrivastava Vs. State of Jharkhand, 2024(2) RCR (Criminal) 279**, the relevant portion of the said judgment reads as under:

"16. When the court deals with an application under Section 143A of the N.I. Act, the Court will have to prima facie evaluate the merits of the case made out by the complainant and the merits of the defence pleaded by the accused in the reply to the application under sub-section (1) of Section 143A. The presumption under Section 139 of the N.I. Act, by itself, is no ground to direct the payment of interim compensation. The reason is that the presumption is rebuttable. The question of applying the presumption will arise at the trial. Only if the complainant makes out a prima facie case, a direction can be issued to pay interim compensation. At this stage, the fact that the accused is in financial distress can also be a consideration. Even if the Court concludes that a case is made out for grant of interim compensation, the Court will have to apply its mind to the quantum



of interim compensation to be granted. Even at this stage, the Court will have to consider various factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant and the paying capacity of the accused. If the defence of the accused is found to be prima facie a plausible defence, the Court may exercise discretion in refusing to grant interim compensation. We may note that the factors required to be considered, which we have set out above, are not exhaustive. There could be several other factors in the facts of a given case, such as, the pendency of a civil suit, etc. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all the relevant factors.”

7. Further, reliance has also been placed on in case “**Jamboo Bhandari vs. M. P. State Industrial Development Corporation Ltd. And others**” : (2024) 1 SCC (Cri) 90, wherein Hon’ble Supreme Court has held that deposit of 20% of the compensation amount was not an absolute requirement for suspension of sentence, if the Court is satisfied that the condition of such deposit will be unjust or imposing of such a condition will amount to deprivation of the right of appeal of the appellant.

8. This proposition of law is shown to have been followed by the co-ordinate Bench of this Court in **Abdul Rashid vs. Kuldeep Singh, CRM-M-3878-2024, decided on 24.01.2024**. In the instant case, while imposing condition of deposit of 20% of compensation amount, the learned appellate Court is not shown to have given any opportunity to the petitioner to make submissions regarding the exceptional circumstances warranting requirement of waiver of depositing of 20% of compensation amount and is shown to have imposed the said condition without the same. Therefore, keeping in view the settled proposition of law to the effect that the appellate Court was



firstly required to consider as to whether the instant case falls within the exceptions warranting grant of suspension of sentence without imposing condition of deposit of 20% of compensation amount/fine, the impugned order dated 28.02.2025 cannot be stated to be sustainable to the extent to which the condition of deposit of 20% of the compensation amount was imposed. Accordingly, the same is set aside to that extent.

9. The present petition is disposed of with a direction to the Appellate Court to make endeavour to dispose of the appeal expeditiously preferably on the next date already fixed in the appeal. However, in case for any reason the Court concerned is unable to dispose of the appeal on the next date, then a short date be fixed thereafter and every effort be made to dispose of the appeal by 08.08.2025. Till then, the appellate Court shall not insist upon the condition regarding depositing of 20% of the cheque amount.

10. The aforesaid directions are, however, subject to the condition that the petitioner fully cooperates with the Court for expeditious disposal of the appeal and does not seek unnecessary adjournments and does not resort to dialectical tactics.

11. It is made clear that the aforesaid order shall automatically cease to operate on 08.08.2025.

12. The petition stands allowed.

07.07.2025

Sonia Puri

**(H.S. GREWAL)
JUDGE**

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| <i>Whether speaking/ reasoned</i> | : | <i>Yes</i> | / | <i>No</i> |
| <i>Whether reportable</i> | : | <i>Yes</i> | / | <i>No</i> |