

CA No. 435/24
RAHUL GAMBHIR VS. SAVITRI TAGEJA

13.03.2026

Present :- Appellant through VC.

Sh. Mayank Wadhwa and Ms.Kanishka Chandnani,
Ld. Counsels for the appellant.

Sh. Bharat Sareen, Sh. Arun Gupta, Sh. Mohit
Kukreja, Ms. Alisha Mohsin and Sh.Mohit Tiwari,
Ld. Counsels for the respondent.

Arguments on the application seeking waiver for deposit of 20% of the fine amount u/S 148 NI Act filed on behalf of the appellant. In support of the application, ld. Counsel for the appellant submits that since the judgment of the Ld. Trial Court suffers from material infirmities and the Ld. Trial Court has not taken into account the probable defence raised by the appellant and since the signatures on the cheque itself does not match, the appellant should not be burdened with the interim compensation as prescribed u/s 148 NI Act.

Per contra, Ld. Counsel for the respondent submits that the contradictions / discrepancies pointed out by the Ld. Counsel for the appellant are subject matter of the merits of the appeal and cannot be decided at the stage of interim compensation. He further submits that even otherwise, the Ld. Trial Court has already dealt with all the contentions raised, herein, by Ld. Counsel for the appellant, in its judgment. Even otherwise, the appellant himself took a doctored defence which has already been dealt by the Ld. Trial Court in the judgment itself and thus, interim compensation be awarded in favour of the respondent.

Submissions heard. Record perused.

The Hon'ble Supreme Court in the case of ***Surender Singh Deswal @ Col. SS Deswal Vs. Virender Gandhi, 2019 (11) SCC 341***, held that the condition imposed by the appellate court directing deposit of a portion of the compensation, awarded by the Ld. Trial Court as mandatory.

In the case of ***Jamboo Bhandari Vs. Madhya Pradesh State Industrial Development Corporation Ltd. & Ors., (2023) 10 SCC 446***, the Hon'ble Supreme Court had the occasion to consider the law laid down in ***Surender Singh Deswal's case (supra)***. 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 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 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.”

Thereafter, the Hon'ble Supreme Court in ***Muskan Enterprises & Anrs. Vs. The State of Punjab & Anr., 2024 INSC 1046*** considered its earlier decisions in ***Surender Singh Deswal's case (supra)*** and ***Jamboo Bhandari's case (supra)*** elucidated the

law on the subject. It was held that *Jambooo Bhandari's case (supra)* lays down that a deposit may not be ordered if the appellate court finds a case to be exceptional not calling for a deposit and the reasons for not ordering a deposit are recorded in the order. It was further held that there can be no gainsaying that normally the discretion of the appellate court should lean towards requiring a deposit to be made with the quantum of such deposit depending upon the factual situation in every individual case, more so, because an order under challenge does not bear the mark of invalidity on its forehead. It was held that the appellate court for recorded reasons and in exceptional cases where on a plain reading of the Trial Court's order, such firm opinion could be formed that the conviction and consequent sentence imposed by the Trial Court is so wholly incorrect and erroneous that it is only a matter of time for the same to be set aside and that ordering a deposit would be unnecessarily burdensome for the appellant.

In view of the law laid down by the Hon'ble Supreme Court in the aforesaid decisions, it is pellucid that it is only in a rare, fit and exceptional case, the appellate court may exercise discretion of not ordering a deposit altogether while suspending the sentence. Further, in terms of Sec. 148(2) NI Act, the amount has to be deposited within 60 days from the date of the order or within such further period not exceeding 30 days as may be directed by the Court on sufficient cause being shown by the appellant.

//4//

There is nothing apparent from a bare reading of the Ld. Trial Court's judgment which would warrant the court to exercise its limited discretion to waive off the deposit. Further, Ld. Counsel for the appellant failed to gather any explanation entitling him to the exemption from deposit of the interim compensation as directed u/s 148 NI Act. Hence, I am of the opinion that it is not a fit case where the amount of deposit u/S 148 NI Act needs to be waived off.

Accordingly, **the application moved on behalf of the appellant seeking waiver is dismissed. The appellant is directed to deposit 20% of the fine amount as interim compensation by the next date of hearing.**

List on 09.04.2026 for arguments on the appeal. Date given as per the convenience of both the sides. The appellant is directed to remain present on the next date.

(Ajay Garg)
Special Judge-NDPS/ASJ (South)
Saket Courts/13.03.2026