

IN THE COURT OF SESSION, ERNAKULAM DIVISION

Present:-

Smt. Honey M. Varghese, Sessions Judge

Tuesday, the 20th day of January, 2026/30th Pousha, 1947

CrI. M.P. No.1 of 2026 in CrI.Appeal No.26 of 2026

Petitioner/Appellant/Accused:-

Siju Paul, S/o.K.P.Paulose, aged 42 years, M/s Anta Builders & Developers Pvt .Ltd, Jubilee memorial Building, Thykoodam, Vytilla, Kochi 682019 now residing at Kaappiyarukudiyil House, Kadamattom, Kunnathunadu.

By Adv.Bibin Kumar

Respondents/Respondents/Complainant:-

1. M/s tropical Traders Maharajas Stadium complex, PT Usha Road, Ernakulam-682011, a Proprietary Concern represented by the proprietor Mr. Althaf naina, aged 50 years, S/o Bappu Naina.
2. State of Kerala Represented by the Public Prosecutor.
R2 by Public Prosecutor Sri.Manoj G.Krishnan

This petition is filed u/s.148 of the Negotiable Instruments Act, praying this court to exempt the petitioner from depositing 20% of the fine amount ordered by the trial court while suspending the sentence passed.

This petition coming on for hearing on 20.01.2026 and the court on the same day, passed the following:-

ORDER

This petition is filed to exempt the petitioner from depositing 20% of the fine amount ordered by the trial court while suspending the sentence passed.

2. It is submitted by the petitioner that he is under bonafide belief that the appeal will be allowed in his favour. So, he prayed to exempt him from remitting 20% of the fine amount.

3. Heard the petitioner and perused the documents.

4. I have considered the contentions. The mandate u/s.148 of NI Act is that the court has to order that the petitioner shall deposit 20% of the amount ordered by the trial court while admitting appeal. It is a mandatory condition. At the very same time, the Hon'ble Supreme court in the decision reported in **Jamboo Bhandari Vs.M.P State Industrial Development Corporation Ltd and others held that 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.**

5. The right to appeal is a statutory right. Having regard to the factual situation, I am of the view that if this court insist for the deposit of 20% of the amount awarded by the trial court, that will deprive the right of the petitioner to proceed with the appeal. Considering this special situation, the condition to deposit 20% of the fine amount imposed by the trial court is waived.

Pronounced by me in open court on this the 20th day of January, 2026.

Sd/-

Honey M.Varghese
Sessions Judge

sk/

comp. By:

CrI. M.P. No.1 of 2026 in
CrI.Appeal No.26 of 2026
Order dated: 20.01.2026