



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.94 of 2026

(In the matter of an application under Section 438 of
BNSS read with Section 442 of BNSS)

Gouri Prasad Das @
Gouri Das

Petitioner

-versus-

1. State of Orissa
2. Udaya Chandrika

Opposite Parties

For Petitioner : Mr. A. Ray, Advocate

For Opposite Parties : Mr. S. Panigrahi, ASC
Mr. A. Mishra, Advocate

**CORAM:
JUSTICE V. NARASINGH**

DATE OF FINAL HEARING : 30.03.2026

DATE OF JUDGMENT : 31.03.2026

V. Narasingh, J. Heard learned counsel for the Petitioner and
learned counsel for the Opposite Parties.

1. Assailing the order dated 02.12.2025 passed by
the learned Addl. Sessions Judge, Jajpur Road in
Criminal Appeal No.62 of 2025 arising out of 1C.C.



Case No.71 of 2019 (Trl. No.75 of 2025) directing the Petitioner to deposit 20% of the compensation amount in terms of Section 148(1)¹ of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'N.I. Act'), this criminal revision has been preferred.

2. It is apt to note that the Petitioner-accused was found guilty by the judgment dated 01.11.2025 by the learned Civil Judge-cum-JMFC, Jajpur Road in 1C.C. Case No.71 of 2019 (Trl. No.75 of 2025), instituted by the Opposite Party as the complainant.

3. It is submitted with vehemence by Mr. Ray, learned counsel relying on the judgment of the Apex Court in the case of ***Jamboo Bhandari vrs. Madhya Pradesh State Industrial Development Corporation Limited and Ors.***², that in the factual matrix of the case at hand, the learned Appellate

¹ **148. Power of Appellate Court to order payment pending appeal against conviction.**— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under Section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court:

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under Section 143-A.

² *Jamboo Bhandari v. M.P. SIDC Ltd.*, (2023) 10 SCC 446



Court failed to appreciate that the said stipulation is not inflexible.

He also vehemently urged that the documents placed before the learned Trial Court were not taken into account and the appreciation of evidence and materials on record is ex facie perverse, which forms the subject matter of the appeal. The direction as per the impugned order to make a deposit of 20%, considering his present financial condition, would deprive him from prosecuting the appeal, in an effective manner.

4. Learned counsel for the complainant-Opposite Party opposes such submission, and in doing so, he also relies on the very judgment which has been cited by the Petitioner-accused.

5. One of the grounds which has been urged is that the cheque in question was inter alia issued as a security.

To fortify his submissions, learned counsel for the Petitioner also referred to the documents which



were placed on record by way of memo, which read as under:-

- "1. Copy of the cheque issued by the Opp. Party No. 2 bearing no. 089634 of State Bank of India, Jajpur Road Branch.
2. Copy of the letter for indemnification dated 21.12.2009 issued by the Opp. Party No. 2 to the Petitioner.
3. Copy of the deposition of the Petitioner.
4. Copy of the Evidence Affidavit of the Opp. Party No. 2 along with the cross examination."

And, referring to the same, it is submitted that in recording an order of conviction the learned Trial Court failed to appreciate the evidence and materials on record in its proper perspective.

6. This Court carefully perused the materials on the basis of which the judgment of conviction has been recorded, as well as the materials, which have been produced by way of memo, which include the evidence as adduced before the learned Trial Court of the Petitioner as well as the Opposite Party No.2.



7. Keeping in view that the learned Trial Court is in seisin of the matter, this Court refrains from making any observation regarding the stand taken by the Petitioner-accused referred to hereinabove, since that will prejudice the learned Appellate Court.

8. Paragraph Nos.6 and 7 of the Judgment in ***Jamboo Bhandari (Supra)***² which are germane for the decision in this revision, are extracted hereunder:-

“6. What is held by this Court is that a purposive interpretation should be made of Section 148 NI Act. Hence, normally, the 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 the appellate court considers the prayer under Section 389 CrPC of an accused who has been convicted for offence under Section 138 NI 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."

(Emphasized)

9. On considering the rival submissions in the light of the evidence and materials on record, this Court is not persuaded to hold that the Petitioner has been able to make out an "exceptional case" so as to merit complete waiver of the stipulation of "the minimum of 20% of fine or compensation awarded by the learned Trial Court."

It is apt to note that this Court initially, by order dated 29.01.2026 in I.A. No. 143 of 2026, extended the stipulation of deposit of 20% of the compensation. The same was further extended by orders dated 09.03.2026 and 18.03.2026.

10. Taking into account the submission of the learned counsel regarding health condition of the Petitioner and financial constraints, this Court is of the



considered view that directing the Petitioner to deposit 10% of the cheque amount of Rs.25,00,000/- in terms of Section 148A of the N.I. Act within a period of two weeks would sub serve the ends of justice.

The amount, if deposited, shall be released in favour of the Opposite Party No.2, which shall abide by the outcome of the appeal.

11. The order passed by the learned Additional Sessions Judge, Jajpur Road dated 02.12.2025 accordingly stands modified.

12. In the event the amount is not deposited, it shall be open for the learned Court in seisin to take action in accordance with law.

The learned Appellate Court is requested to dispose of the appeal as expeditiously as possible since both the sides have assured this Court that they will cooperate for such timely disposal.



13. The criminal revision along with the I.A. stand disposed of. The interim order passed earlier accordingly merges with this order.

(V. Narasingh)
Judge

*Orissa High Court, Cuttack,
Dated the 31st March, 2026/Jina*