



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.412 of 2025

Upendranath Behera

....

Petitioner

Mr. B.K.Mohanty, Advocate

-Versus-

State of Odisha & another

....

Opposite Parties

Mr. P.K.Ray, AGA

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

24.07.2025

Order No.

01.

1. Heard Mr. Mohanty, learned counsel for the petitioner and Mr. Ray, learned AGA for the State opposite party No.1.
2. Notice to opposite party No.2 is dispensed with as the same is not necessary.
3. Instant revision is filed by the petitioner challenging the impugned order dated 25th April, 2025 passed in connection with Criminal Appeal No.11 of 2025 by learned District & Sessions Judge, Jagatsinghpur directing him to deposit 20% of the fine amount i.e. Rs. 80,000/- out of Rs.4,00,000/- in terms of Section 148 of the N.I.Act as unreasonable and hence, legally untenable and therefore, to be set aside with followed by consequential directions issued.



4. Mr. Mohanty, learned counsel for the petitioner submits that any such direction for the petitioner to make a deposit of Rs.80,000/- is wholly unreasonable but the learned court below without exercising the discretion in the manner contemplated passed the impugned order dated 25th April, 2025 as at Annexure-2. Mr. Ray, learned AGA for the State for opposite party No.1 justifies the impugned order i.e. Annexure-2 series referring to Section 148 of the N.I.Act leaving no discretion left while demanding such deposit which shall be a minimum of 20% of the fine amount or compensation awarded by the Trial court.

5. On a proper reading of Section 148 of the N.I.Act, it is made to understand that in an appeal by the drawer against conviction for an offence under Section 138 thereof, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of 20% of the fine or compensation awarded by the court below. The question is, whether, the Appellate Court has any discretion to exercise while demanding the deposit entertaining an appeal by the drawer. In an identical case, this Court had the occasion to consider such a question while disposing of Criminal Revision No. 229 of 2025 dated 18th June, 2025, wherein, a direction was issued to the Appellate Court to consider the quantum of amount to be deposited in terms of Section 148 of the N.I.Act keeping in view the decision of the Apex Court in **Jamboo Bhandari Vrs. Madhya Pradesh State Industrial Development**



Corporation Limited and others in Criminal Appeal No. 2741 of 2020 arising out of SLP (CrI.) No. 4927 of 2023. The Court is inclined to reiterate the same view with a conclusion that the appellant shall have to carve out an exception while challenging such demand of deposit under Section 148 of the N.I.Act. On a reading of the impugned order i.e. Annexure-2 series, the Court does not find the learned court below to have undertaken any such exercise while directing the petitioner to make the statutory deposit. So, therefore, the conclusion is that the matter needs a remand for a fresh decision by the learned court below keeping in view the ratio decided by the Apex Court in **Jamboo Bhandari** (supra) as the same would instead serve the purpose and meet the ends of justice.

6. Accordingly, it is ordered.

7. In the result, the revision stands disposed of with the direction as aforesaid to be complied with by learned Sessions Judge, Jagatsinghpur in Criminal Appeal No. 11 of 2025 to consider the quantum of statutory deposit as against the fine amount directed bearing in mind the decision in **Jamboo Bhandari** (supra) and thereafter, to pass necessary order as per and in accordance with law and till such time, a decision is rendered, there shall be no coercive action taken against the petitioner in connection with 1.C.C. Case No. 08 of 2014. It is further directed that learned court below shall pass a final order in view of the direction as aforesaid at the earliest preferably



within a period of three weeks from the date of receipt of a copy of this order providing an opportunity of hearing to the petitioner.

8. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

kabita

Signature Not Verified

Digitally Signed
Signed by: KABITARANI MAJHI
Designation: Secretary
Reason: Authentication
Location: OHC, Cuttack
Date: 25-Jul-2025 19:15:37

