

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p>C528 No.705 of 2026 <u>Hon'ble Alok Mahra, J.</u></p> <p>Mr. Yogesh Pant, Advocate for the applicant. Mr. Akshay Latwal, A.G.A. for the State of Uttarakhand.</p> <p>2. Respondent no.2 instituted a complaint against the applicant under Section 138 of the Negotiable Instruments Act. Upon culmination of proceedings, the learned Magistrate took cognizance and summoned the applicant. Learned Judicial Magistrate, Rudrapur, District Udham Singh Nagar, vide judgment dated 23.02.2026, convicted the applicant and sentenced him to undergo rigorous imprisonment for a period of one year along with a fine of ₹17,50,000/-. Aggrieved by the aforesaid judgment, the applicant preferred a Criminal Appeal. Along with the appeal, applications seeking bail and stay of recovery of fine were also moved. Learned Sessions Judge, Udham Singh Nagar, vide order dated 17.03.2026, admitted the appeal and enlarged the applicant on bail. However, while granting stay of recovery of fine, the Appellate Court directed the applicant to deposit 20% of the fine amount imposed by the trial court.</p> <p>3. Learned counsel for the applicant submits that Section 148(1) of the Negotiable Instruments Act confers discretion upon the Appellate Court to direct deposit of a minimum of 20% of the fine or compensation, and the said provision, though couched in mandatory terms, has been interpreted by the Hon'ble Apex Court to be directory in appropriate cases. It is further submitted that the requirement of deposit is not inflexible and may be relaxed upon demonstration of exceptional circumstances. Reliance has been placed upon the judgment in Jamboo Bhandari Vs. Madhya Pradesh State Industrial Development Corporation Limited & others, reported in (2023) 10 SCC 446, wherein it has been held that the Appellate Court possesses limited discretion to modify the condition of deposit under Section 148 of the Act upon the existence of exceptional and adequately substantiated circumstances.</p> <p>4. It is further submitted that the applicant has placed on record, by way of supplementary affidavit, his Income Tax Returns for the preceding three years, which reflect that his annual income is</p>

approximately ₹8,00,000/-. It is also stated that the applicant has the responsibility of maintaining his wife and two minor children, and thus, the condition of depositing 20% of the fine amount causes undue financial hardship.

5. Having considered the submissions advanced, as well as the material brought on record, this Court finds that although Section 148 of the Negotiable Instruments Act provides for deposit of a minimum of 20% of the fine or compensation, the same is not to be applied mechanically. The financial capacity of the applicant, the quantum of fine imposed, and the surrounding circumstances are relevant considerations. The Income Tax Returns placed on record prima facie indicate that the applicant does not possess sufficient financial capacity to comply with the condition of depositing 20% of the fine amount, which would be disproportionately onerous. At the same time, the object of Section 148, namely to balance the interests of the complainant and to ensure some monetary security during pendency of the appeal, must also be kept in view.

6. In view thereof, and in the interest of justice, the impugned order dated 17.03.2026 is modified to the extent that the applicant shall deposit a total sum of ₹2,00,000/-, inclusive of ₹84,781/- already deposited under Section 143A of the Negotiable Instruments Act, within such time as may be stipulated by the appellate court. The said amount shall be subject to the final outcome of the appeal.

7. The criminal misc. application is, accordingly, disposed of.

(Alok Mahra, J.)

30.04.2026

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