

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1644 OF 2026

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Navdurga Steel Traders & Anr.

...Applicants

Versus

M/s. Z. V. Steels Pvt. Ltd. & Anr.

...Respondents

WITH

INTERIM APPLICATION NO.3040 OF 2026

IN

CRIMINAL APPLICATION NO.1644 OF 2026

Navdurga Steel Traders & Anr.

...Applicants

Versus

M/s. Z. V. Steels Pvt. Ltd. & Anr.

...Respondents

Mr. Nadeem Shama a/w Hubab Sayyed i/b Sahil Sayyed, for the Applicants.

Mr. Niraj Shah (Through Video Conferencing), for Respondent No.1.

Mr. P. P. Jadhav, APP, for the Respondent-State.

Coram: Madhav J. Jamdar, J.

Date: 08 September 2026

P.C.:

1. Heard Mr. Nadeem Shama, learned Counsel appearing for the Applicants and Mr. Niraj Shah, learned Counsel appearing for Respondent No.1.

2. By the Criminal Application filed under Section 528 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, the Applicants are challenging the legality and validity of the Order dated 9th July 2026 passed by the learned Additional Sessions Judge, 88th Court, City Sessions Court,

Mumbai in Cri. M.A. No.0100327 of 2026 filed in Appeal No.179 of 2026 ("**impugned Order**"). The said Order dated 9th July 2026 reads as under:

"Adv. Sahil Sayyed for the applicant is present. Adv. Renu Dubey for the respondent is present through VC. Reply not filed. Stay is continued subject to deposit of 20 percent compensation amount vide 148 of NI Act. Matter is adjourned to 31.08.2026 for reply/hearing."

Thus, it is clear that the impugned Order is the unreasoned Order.

3. The Supreme Court in the decision of ***Jamboo Bhandari v. M.P. SIDC Ltd.***¹, has set out various aspects which are required to be taken into consideration while exercising power under Section 148 of the *Negotiable Instruments Act, 1881* ("**NI Act**"). Paragraph Nos.5 to 10 of the said decision are very relevant, which read as under:

"5. Para 8 of the decision of this Court in Surinder Singh Deswal [Surinder Singh Deswal v. Virender Gandhi, (2019) 11 SCC 341 : (2019) 3 SCC (Cri) 461 : (2019) 3 SCC (Civ) 765] reads thus : (SCC p. 350)

*"8. Now so far as the submission on behalf of the appellants that even considering the language used in Section 148 NI Act as amended, 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 trial court and the word used is not "shall" and therefore the discretion is vested with the first appellate court to direct the appellant-accused to deposit such sum, and the appellate court has construed it as mandatory, which according to the learned Senior Advocate for the appellants would be contrary to the provisions of Section 148 NI Act as amended is concerned, **considering the amended Section 148 NI Act as a whole to be read with the Statement of Objects and Reasons of the amending Section 148 NI***

1 (2023) 10 SCC 446

Act, though it is true that in the amended Section 148 NI Act, the word used is “may”, it is generally to be construed as a “rule” or “shall” and not to direct to deposit by the appellate court is an exception for which special reasons are to be assigned. Therefore amended Section 148 NI Act confers power upon the appellate court to pass an order pending appeal to direct the appellant-accused to deposit the sum which shall not be less than 20% of the fine or compensation either on an application filed by the original complainant or even on the application filed by the appellant-accused under Section 389CrPC to suspend the sentence. The aforesaid is required to be construed considering the fact that as per the amended Section 148 NI Act, a minimum of 20% of the fine or compensation awarded by the trial court is directed to be deposited and that such amount is to be deposited within a period of 60 days from the date of the order, or within such further period not exceeding 30 days as may be directed by the appellate court for sufficient cause shown by the appellant. Therefore, if amended Section 148 NI Act is purposively interpreted in such a manner it would serve the Objects and Reasons of not only amendment in Section 148 NI Act, but also Section 138 NI Act. The Negotiable Instruments Act has been amended from time to time so as to provide, inter alia, speedy disposal of cases relating to the offence of the dishonour of cheques. So as to see that due to delay tactics by the unscrupulous drawers of the dishonoured cheques due to easy filing of the appeals and obtaining stay in the proceedings, an injustice was caused to the payee of a dishonoured cheque who has to spend considerable time and resources in the court proceedings to realise the value of the cheque and having observed that such delay has compromised the sanctity of the cheque transactions, Parliament has thought it fit to amend Section 148 NI Act. Therefore, such a purposive interpretation would be in furtherance of the Objects and Reasons of the amendment in Section 148 NI Act and also Section 138 NI Act.”

(emphasis supplied)

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 389CrPC 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.

8. The submission of the learned counsel appearing for the original complainant is that neither before the Sessions Court nor before the High Court, there was a plea made by the appellants that an exception may be made in these cases and the requirement of deposit or minimum 20% of the amount be dispensed with. He submits that if such a prayer was not made by the appellants, there were no reasons for the courts to consider the said plea.

9. We disagree with the above submission. When an accused applies under Section 389CrPC for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the court has to consider whether the case falls in exception or not.

10. In these cases, both the Sessions Courts and the High Court have proceeded on the erroneous premise that deposit of minimum 20% amount is an absolute rule which does not accommodate any exception."

(Emphasis added)

4. Thus, what is contemplated is that, in exceptional circumstances, 20% of the deposit amount as contemplated under Section 148 of the NI Act can be waived or reduced. Therefore, it is absolutely essential that the Sessions Court should have recorded the reasons.

5. Accordingly, the impugned Order dated 9th July 2026 passed by the learned Additional Sessions Judge, 88th Court, City Sessions Court, Mumbai in Cri. M.A. No.0100327 of 2026 filed in Appeal No.179 of 2026, is quashed and set aside only on the ground that the same is unreasoned Order and the matter is remanded back to the learned Additional Sessions Judge for passing fresh Order by granting opportunity of hearing to both the parties.

6. The Criminal Application is disposed of in above terms.

7. It is clarified that this Court has not considered the merits as far as the deposit of 20% amount as contemplated by Section 148 of the NI Act and all contentions in that behalf are expressly kept open.

8. As the Criminal Application No.1644 of 2026 is disposed of, nothing survives in the Interim Application and the same is also disposed of.

[Madhav J. Jamdar, J.]