



2026:AHC:129481

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 17867 of 2026

Shriram Agarwal

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Shyam Shanker Pandey

Counsel for Opposite Party(s) : G.A., Ram Lakhan Deobanshi, Sonia Kulshreshtha

Court No. - 73

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri S.S. Pandey, learned counsel for the applicant, Sri Ram Lakhan Deobanshi, learned counsel for opposite party no. 2, and Sri Deepak Kumar Singh, learned A.G.A. for the State.

2. A joint statement has been made by the learned counsel for the parties that they do not propose to file any further affidavit and that the application may be decided on the basis of the material available on record. With the consent of the parties, the application is being decided at the admission stage.

3. The case of the applicant is that opposite party no. 2 instituted proceedings under Section 138 of the Negotiable Instruments Act, 1881. Pursuant thereto, the trial commenced and, by judgment and order dated 18.02.2026, passed in Criminal Complaint Case No. 2833 of 2024, Gaurav Kumar vs. Shriram Agarwal, the learned Chief Judicial Magistrate, Baghpat, convicted the applicant and sentenced him to undergo simple imprisonment for two years. The trial court also imposed a compensation/fine of Rs. 80,00,000/-, out of which 75% was directed to be paid to the complainant and the remaining amount was to be deposited with the State.

4. Aggrieved by the said judgment and order, the applicant preferred Criminal Appeal No. 29 of 2026, Shriram Agarwal vs. Gaurav Kumar, before the Court of the Sessions Judge, Baghpat. Along with the appeal,

an application seeking suspension of sentence, stay of conviction and recovery was also filed.

5. By order dated 18.03.2026, the appellate court, while exercising powers under Section 415 of the BNSS directed suspension of the sentence subject to the applicant depositing 20% of the compensation awarded by the trial court.

6. Questioning the aforesaid order dated 18.03.2026, the present petition has been preferred.

7. Learned counsel for the applicant submits that the direction requiring deposit of 20% of the compensation has been issued mechanically. It is contended that though Section 148 of the Negotiable Instruments Act empowers the appellate court to direct deposit of a portion of the compensation, such power is discretionary and is required to be exercised judiciously, having regard to the facts of each case. The appellate court was required to consider whether the case fell within an exceptional category warranting such a direction. In support of the aforesaid submission, reliance has been placed upon the judgments of the Hon'ble Supreme Court in *Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. & Ors.*, (2023) 10 SCC 446 and *Muskan Enterprises & Anr. v. State of Punjab & Anr.* 2024 SCC OnLine SC 4107.

8. Learned counsel for the applicant, on instructions from his client, submits that the applicant is willing to deposit 10% of the compensation amount awarded by the trial court.

9. Per contra, learned A.G.A. and learned counsel for opposite party no. 2 submit that the applicant is a convicted person and has not been diligent during the proceedings. However, learned counsel for opposite party no. 2 fairly submits that he has no objection if the applicant is directed to deposit 10% of the compensation amount, provided the appellate court is directed to decide the appeal expeditiously without granting unnecessary adjournments.

10. I have heard learned counsel for the parties and perused the record.

11. Admittedly, the applicant stands convicted by the trial court and has preferred an appeal under Section 415 BNSS. The appellate court, while exercising powers under Section 148 of the Negotiable Instruments Act, has directed the applicant to deposit 20% of the compensation amount. A bare perusal of the impugned order reveals that no reasons have been assigned as to why the maximum permissible amount was directed to be deposited, nor has the appellate court considered whether the facts of the present case warranted such a direction. In view of the law laid down by the Hon'ble Supreme Court in *Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. & Ors. (Supra)* and *Muskan Enterprises (supra)* and *Muskan Enterprises & Anr. v. State of Punjab & Anr. (supra)*, the impugned order requires modification.

12. Since learned counsel for the parties are in agreement that the deposit of 10% of the compensation amount would adequately safeguard the interests of both sides, the present petition is disposed of with the following directions:-

(i) The order dated 18.03.2026 passed by the learned Sessions Judge, Baghat in Criminal Appeal No. 29 of 2026, Shriram Agarwal vs. Gaurav Kumar and others, shall stand modified to the extent that, instead of depositing 20% of the compensation amount awarded by the trial court, the applicant shall deposit 10% thereof. Accordingly, the applicant shall deposit a sum of Rs. 8,00,000/- by 17.07.2026 before the court concerned and shall place proof of such deposit before the appellate court.

(ii) Upon such deposit, the appellate court shall make all endeavour to decide Criminal Appeal No. 29 of 2026 expeditiously, strictly in accordance with law, without granting unnecessary adjournments. In the event any adjournment is granted, the same shall ordinarily not exceed 15 days at any stage of the proceedings.

(iii) In case the applicant fails to deposit the aforesaid amount by 17.07.2026, the protection granted by this Court shall automatically stand vacated, and it shall be open to the appellate court to proceed further in accordance with law.

13. Before parting, Sri S.S. Pandey, learned counsel for the applicant, and Sri Ram Lakhan Deobanshi, learned counsel for opposite party no. 2, have jointly stated at the Bar that they shall extend full cooperation to the appellate court and shall not seek unnecessary adjournments.

14. With the aforesaid observations and directions, the present petition stands *disposed of*.

(Vikas Budhwar,J.)

June 29, 2026

Sushma