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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 18.11.2026***

\# **CNR No. DLHC010548562026**

\+ **CRL.REV.P.(NI) 378/2026, Crl.M.A.35595/2026**

ANIL KUMAR ALIAS TONI .....Petitioner

Through: Mr. Siddharth Joshi, Mr. Rakesh Kr. Gupta, Mr. Das and Ms. Khushi Bansal, Advs.

versus

OM PRAKASH .....Respondent

Through: Mr. Dhananjay Mehlavat, Adv.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

Crl.M.A.35596/2026 (for condonation of delay of 24 days in re-filing the petition)

1. This is an application filed by the petitioner seeking condonation of delay of 24 days in re-filing the petition.

2. Considering the averments made in the application, the same is allowed, and the delay of 24 days in re-filing the petition stands condoned.

3. The application stands disposed of.

CRL.REV.P.(NI) 378/2026

4. The petitioner assails the judgment pronounced on 17.08.2026, passed by learned Additional Sessions Judge (FTC)-01, South District, Saket Courts, New Delhi, in Criminal Appeal No.795/2025, titled '*Anil Kumar alias Toni v. The State (NCT of Delhi) & Anr.*', wherein the conviction

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awarded *vide* judgment dated 31.10.2025 (in Complaint Case No. 34737/2019) was upheld and the order of sentence dated 15.11.2025 (in Complaint Case No. 34737/2019) was modified. The impugned judgment to this effect reads as follows:

> *"52. Accordingly, the criminal appeal titled as Anil Kumar alias Toni vs. State & Anr. – CA No. 795/2025 is partly allowed on the point of sentence.* ***The impugned judgment of conviction dated 31.10.2025 passed by the Trial Court is upheld and affirmed. However, the order on sentence dated 15.11.2025 is modified to the effect that the appellant/convict is directed to pay a modified fine/compensation in the sum of ₹24,68,301/ -*** *comprising the principal cheque amount of ₹15,00,000/ - and simple interest @ 12% per annum from 15.06.2019 to 17.08.2026 amounting to ₹9,68,301/- as compensation to the respondent No. 2/complainant Om Prakash.*
>
> *53.* ***The modified fine/compensation of ₹24,68,3 01/- shall be paid by the appellant/convict to the respondent No. 2/complainant within a period of 03 (three) months from today. In case the appellant/convict fails to pay the said compensation within three months from today, the appellant/convict shall undergo simple imprisonment for a period of 01 (one) month as sentence in default.****"*
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> (emphasis supplied)

5. The impugned judgment in paragraph 54 also directs that the fixed deposit receipt (FDR) dated 09.03.2026 for a sum of ₹1,50,000/-, deposited by the petitioner, be released in favour of the complainant.

6. The complaint concerns a cheque (bearing No. 157392 and dated 15.06.2019) for Rs. 15,00,000/-, which was dishonoured on account of insufficiency of funds. The complainant's/respondent's case is that the petitioner stood guarantor for a loan advanced to one Sandeep Chatwal.

7. Learned counsel for the petitioner submits that the appellate Court gave an adverse finding on the fact that the petitioner did not reply to the

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statutory notice. It is the contention of the petitioner that the statutory notice was replied to by his reply dated 28.09.2019. The same has been appended as Annexure P-11 to the present petition.

8. Issue notice. Learned counsel, as aforesaid, accepts notice on behalf of the respondent.

9. Let reply be filed before the next date of hearing.

10. Let the digitised trial court record (TCR) be requisitioned and placed on record.

11. List on 12.01.2027.

Crl.M.A.35594/2026 (for stay)

12. Issue notice. Learned counsel, as aforesaid, accepts notice for the respondent.

13. The time granted by the appellate Court to pay compensation in paragraph 53 of the impugned judgment (reproduced hereinabove) expires after three months of its pronouncement, *i.e.*, on 17.11.2026. Accordingly, this Court is of the opinion that the default sentence should be stayed.

14. As is required by Section 148 of the NI Act, it is incumbent upon the petitioner/applicant to deposit 20% of the compensation (in this case, Rs. 2,00,000), *de hors* exceptional circumstances, especially when the direction is passed by the appellate/revisional Court to this effect while staying/suspending the sentence. In this regard, a reference can be made to the Supreme Court's decision in ***Jamboo Bhandari v. M.P. SIDC Ltd.*, (2023) 10 SCC 446**, wherein the Court noted the following:

> *"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***

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> ***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****."*
>
> (emphasis supplied)

15. In ***M/s Usha Jewellers Pvt. Ltd. v. State Bank of India,*** **2025:DHC:11664**, a Coordinate Bench of this Court, while deciding the applications seeking suspension of sentence during the pendency of a revision petition against concurrent findings of conviction under Section 138 of the NI Act, made the following observations:

> *"16.* ***Even prior to the introduction of Section 148 of the NI Act, the principle that suspension of sentence in cheque dishonour cases can be made conditional upon deposit of the fine or a part thereof had been recognised by the Hon'ble Supreme Court.*** *In Stanny Felix Pinto v. Jangid Builders (P) Ltd.: (2001) 2 SCC 416, the Hon'ble Supreme Court upheld the power of the appellate court to direct deposit of a portion of the fine while suspending the sentence, observing that such a condition is neither unjust nor unconscionable, particularly where the fine imposed is substantial. It was observed as under …*
> *19. Dehors the conduct of the petitioner, this Court also finds that* ***no extraordinary or exceptional circumstances*** *have been demonstrated making out a case for suspension of sentence without insisting upon the petitioner's compliance with the statutory condition under Section 148 of the NI Act. Further,* ***no glaring illegality or patent perversity has been pointed out in the concurrent findings returned by the learned Trial Court as well as***

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> ***the learned Sessions Court, on the basis of which this Court could prima facie form an opinion that the conviction is likely to be set aside in revision****, which was held by the Hon'ble Supreme Court, in Muskan Enterprises & Anr. v. The State of Punjab & Anr: 2024 INSC 1046, as one of the main considerations for waiving of the deposit.*"
>
> (emphasis supplied)

16. Considering the circumstances, till the next date of hearing, the default sentence shall not be executed against the petitioner, subject to the petitioner depositing 20% of the modified compensation amount, *i.e.*, Rs. 4,93,660/-, before the trial Court within a period of four weeks from today, after adjusting the amount of Rs. 1,50,000/-, already stated to have been deposited. If the deposit is not made, this interim order shall stand vacated without further reference to this Court.

17. The application stands disposed of in the above terms.

SACHIN DATTA, J

NOVEMBER 18, 2026/cl/vk

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