

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 2115 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 73 OF 2015**

Babasaheb s/o. Asaram Bankar .. Applicant

Versus

Raju s/o. Uttamrao Shinde .. Respondent

Mr. S.S. Dambe, Advocate for the applicant.

**CORAM : SMT.SADHANA S. JADHAV,J.
DATED : 20.04.2015**

P.C. :-

1. Heard. The applicant herein is convicted for offence punishable under section 138 of the Negotiable Instruments Act in STC No.302 of 2009 by the J.M.F.C., Aurangabad and is sentenced to simple imprisonment for two months and compensation of Rs.1,35,000/- vide order dated 02.05.2011. Being aggrieved by the said judgment and order, the applicant herein had filed Criminal Appeal

No.131 of 2011 before the Sessions Court, Aurangabad. At the time of admission of the appeal, the applicant has deposited Rs.34,000/- towards compensation. Learned Counsel for the applicant submits that the disputed cheque was for an amount of Rs.1,35,000/-. Learned Counsel for the applicant has placed implicit reliance on the judgment of the Apex Court in the case of **Dilip S. Dahanukar vs Kotak Mahindra Co. Ltd. & Anr.** reported in **(1971) 3 SCC 337.** Learned Counsel submits that admitted liability was of Rs. 44000/-. The applicant undertakes to deposit an amount of Rs.16000/- in this Court within four weeks from today. The Appellate Court vide judgment and order dated 16.04.2015 has been pleased to dismiss the appeal. The applicant is taken into custody on the same day. In view of this, the applicant deserves to be enlarged on bail.

2. The application is allowed. The substantive sentence imposed upon the applicant vide judgment and

order dated 02.05.2011 confirmed by the Appellate Court vide judgment and order dated 16.04.2015 is hereby suspended. The applicant be enlarged on bail. Same bail, fresh bond. The applicant shall report to the Court of J.M.F.C., Aurangabad once in six months on the scheduled date given by the learned Magistrate. Upon failure to attend any two consecutive dates, the bail granted vide this order would be subject to cancellation.

3. Parties to act upon authenticated copy of this order.

[SMT. SADHANA S. JADHAV, J.]