

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

CRIMINAL WRIT PETITION NO. 4311 OF 2014

Kirit Gadhiya	.. Petitioner
v/s.	
The State of Maharashtra & Anr.	..Respondents

Mr. Akhilesh Singh with Manish Dubey for the petitioner
Mrs. R.V. Newton, APP for respondent State

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 19th OCTOBER, 2015.**

P.C.

1. By this petition, the petitioner herein has challenged the order dated 07.10.2014 whereby the learned Sessions Judge has suspended the execution of the substantive sentence on a condition that the applicant herein deposits 20% of the compensation amount within a period of three weeks. The learned Counsel for the petitioner has relied upon the decision of the Apex Court in the case of *Dilip S. Dahanukar Vs. Kotak Mahindra Co. Ltd. 2007 (3) Supreme 379*, and has submitted that the amount ordered to be deposited is not reasonable. He has submitted that the said amount be reduced to 10%.

2. At the outset, it may be mentioned that in the case of *Dilip Dahanukar vs. Kotak Mahindra (Supra)*, the Hon'ble Apex Court has held that the Appellate Court while suspending the sentence under Section 138 of the said Act was entitled to put the appellant on terms. However, no such term could be put as a condition precedent for entertaining the appeal which is a constitutional and statutory right. The Apex Court held that the Appellate Court can direct only a reasonable amount out of the compensation amount to be deposited. The Apex Court held that as a condition for suspension of sentence, the appellant cannot be called upon to deposit unreasonable amount. While exercising the appellate power, ordinarily, a person should not suffer imprisonment only because the conditions imposed for suspending the sentence are harsh.

3. In the instant case, the learned Sessions Judge while suspending the substantive sentence has directed the appellant to deposit 20% of the compensation amount. In my considered view,

this condition is neither harsh nor onerous. The learned Sessions Judge has not imposed any such condition, which is a condition precedent for entertaining the appeal. Hence, I do not find any reason to interfere in the impugned order dated 07.10.2014.

4. Under the circumstances, the Writ Petition has no merits and is hereby dismissed.

5. At this stage, the learned Counsel for the petitioner seeks extension of time to deposit the amount. The learned Counsel for the petitioner, upon instructions, submits that the petitioner shall deposit 10% of the compensation amount within two weeks and the balance 10% will be deposited in the following two weeks. Statement is accepted. Accordingly, time is extended to deposit the compensation as undertaken above.

(ANUJA PRABHUDESSAI, J.)