

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 CRIMINAL APPLICATION NO. 577 OF 2016
IN
CRIMINAL REVISION APPLICATION NO. 220 OF 2015

PRAKASH S/O NARAYANRAO SALUNKE
VERSUS
PURUSHOTTAM S/O CHAITRAM PATIL AND ANOTHER

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Advocate for Applicant : Mrs. Kalpalata Patil Bharaswadkar
APP for Respondent No. 2 : Mr. P. N. Kutti
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CORAM : V. K. JADHAV, J.

DATED : 29th JANUARY, 2016

PER COURT :-

1. The applicant/original accused is convicted by Judicial Magistrate First Class, Sindkheda, District Dhule, by order dated 25.08.2015 in S.T.C. No. 1119 of 2009 for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 and sentenced to suffer simple imprisonment for six months and to pay compensation of Rs.9,00,000/- within a period of one month from the date of order, i/d to suffer simple imprisonment for one month. The Additional Sessions Judge, Dhule, by order dated 04.11.2015 passed in Criminal Appeal No. 78 of 2015, confirmed the order of conviction passed by the trial court and dismissed the appeal. The said order is challenged by filing Criminal Revision Application, which is pending.

2. Learned counsel for the applicant/original accused submits that during trial of the case, the applicant was on bail. However, he was not on bail when the appeal was pending since the applicant has not deposited

the amount of compensation. Learned counsel submits that the applicant has already undergone 4½ months imprisonment and he is in jail. Learned counsel submits that as per Schedule II of the Code of Criminal Procedure, the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 is bailable. Learned counsel submits that even it is accepted that the compensation amount is not paid, the applicant has already undergone imprisonment of 4½ months.

3. In view of this, the following order is passed :

ORDER

- I. The Criminal Application No. 577 of 2016 is hereby allowed.
- II. The substantive part of the sentence dated 25.08.2015 passed by Judicial Magistrate First Class, Sindkheda, District Dhule in S. T. C. No. 1119 of 2009, is hereby suspended.
- III. The applicant/accused namely Prakash Narayan Salunkhe be released on bail on furnishing P.R. bond of Rs.5,000/- (Rupees Five Thousand only) with one surety in the like amount.
- IV. The order of payment of compensation shall be considered at the time of admission of Criminal Revision Application No. 220 of 2015. At present, the order directing the applicant/accused to pay compensation is hereby stayed till further orders in Criminal Revision Application No. 220 of 2015.
- V. The Criminal Application is accordingly disposed of.

(V. K. JADHAV, J.)