

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

Criminal Application No. 3459 of 2016
(In Criminal Revision Application No. 152 of 2016)

District : Ahmednagar

Shripati s/o. Karbhari Goikar,
Age : 50 years,
Occupation : Business,
R/o. Bajrangwadi,
Post : Koregaon,
Taluka : Karjat,
District : Ahmednagar.

.. Applicant.

versus

1. Namrata Gramin Bigar Sheti
Sahakari Patsanstha Ltd.,
Rashin, Through Clerk,
Rajendra Bachhu Kale,
Age : 38 years,
Occupation : Service,
R/o. Rashin,
Taluka : Karjat,
District : Ahmednagar.

2. The State of Maharashtra. .. Respondents.

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Mr. V.P. Latange, Advocate, for the applicant.

Mr. S.D. Bhalerao, Advocate, for respondent no.1.

*Mr. S.G. Karlekar, Addl. Public Prosecutor, for
respondent no.2.*

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CORAM : Smt. SADHANA S. JADHAV, J.

DATE : 13TH JULY 2016

ORAL ORDER:

Heard the learned Counsel for the applicant, the learned Counsel for respondent no.1 and the learned Addl. Public Prosecutor for respondent no.2.

2. This is an application seeking suspension of sentence. The applicant herein is convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, by the learned Judicial Magistrate (F.C.), Karjat, in S.T.C. No. 549/2005, vide judgment and order dated 27th March 2008, and is sentenced to suffer rigorous imprisonment for one month and to pay fine of Rs. 25,000/-, in default of payment of fine, to suffer further rigorous imprisonment for one month. Being aggrieved by the said judgment and order, the applicant had filed Criminal Appeal No. 70/2008 before the District & Sessions Court at Ahmednagar. The learned Addl. Sessions Judge, Ahmednagar, vide judgment and order dated 15th March 2016, has been pleased to dismiss the appeal. Hence, the applicant has preferred Criminal Revision Application No. 152 of 2016 before this Court, wherein Rule has been issued by passing separate order therein, today.

3. The learned Counsel for the applicant submits that the applicant was on bail during the pendency of the trial as well as during the pendency of the appeal and has not committed breach of any conditions imposed upon him. It is further submitted that the amount of fine is also deposited.

4. The sentence imposed upon the applicant is a short term sentence and in the eventuality, the substantive sentence is not suspended, the Revision Application would become infructuous. The learned Counsel for the applicant has placed on record, the communication which shows that the applicant has surrendered before the Judicial Magistrate (F.C.), Karjat, on 13th July 2016. Hence, the substantive sentence deserves to be suspended.

5. The Application is allowed.

(a) The substantive sentence imposed upon the applicant, vide judgment and order dated 27th March 2008, passed by the learned Judicial Magistrate (F.C.), Karjat, in S.T.C. No. 549/2005, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and confirmed by the judgment and order dated 15th March 2016, passed by the learned Addl. Sessions Judge, Ahmednagar, in Criminal Appeal No. 70/2008, is hereby suspended.

(b) The applicant be enlarged on bail, pending hearing and final disposal of Criminal Revision Application No. 152 of 2016. Same bail, fresh bonds.

(c) The applicant shall report to the Court of Judicial Magistrate (F.C.), Karjat, once in six months, on the date assigned by the learned Magistrate. Upon failure to attend any two

consecutive dates, the learned Magistrate to issue non-bailable warrant against the applicant, calling upon him to serve the substantive sentence.

6. The Criminal Application stands disposed of in the above terms.

7. Parties to act upon an authenticated copy of this order.

(Smt. SADHANA S. JADHAV)
JUDGE

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