

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.538 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.521 OF 2016

Chetan R. Dhruv .. Applicant
Versus
Rajan D. Agarwal and anr .. Respondents

Mr.Osman Chisty with Mr.Samar Chaudhary, Advocate for the applicant.

Mr.J.A. Udaipuri i/b Udaipuri & Co. for respondent no.1.

Mr.P.H.Gaikwad Patil, APP for the Respondent State.

CORAM : PN. DESHMUKH, J

DATED : 30th SEPTEMBER 2016

P.C. :

1 Heard learned counsel for the applicant. Heard learned counsel for respondent no.1 – original complainant and the learned APP.

2 This is an application for suspension of sentence imposed upon applicant in proceedings initiated u/s.138 of Negotiable Instruments Act, 1888 and for grant of bail. Learned counsel for the applicant has submitted that applicant was on bail, pending trial, and is willing to make payment of 50% of the compensation amount pending his challenge to the impugned judgment of the Sessions Court. It is therefore, prayed that application be allowed by imposing suitable conditions.

3 Learned counsel for respondent no.1 has strongly opposed the application on the ground that applicant inspite of service of non-bailable warrant issued by the trial Court after his conviction, did not comply with the same saying that same was served on his son. It is further contended that respondent no.1 – original complainant is canvassing his claim before various Courts since the year 1999, and it is only in the year 2014, though he could secure conviction of applicant, applicant, for one or the other reason is making every attempt, and is avoiding his arrest. Learned counsel has submitted that in the circumstances, the application be rejected, however, has further contended that in the event this Court finds this application to be liable to be allowed. Applicant be directed to furnish heavy surety to the extent of Rs.10,00,000/- and also be directed to supply addresses of all his relatives, including in-laws so as to secure his presence, if required in future.

4 Record reveals that applicant came to be convicted by the learned Magistrate u/s.138 of the Negotiable Instruments Act and is sentenced to suffer SI for three months and to pay fine of Rs.1,70,000/- in default of payment of compensation to suffer SI for two months.

5 In a revision preferred against said judgment, above-said order came to be modified thereby directing the applicant to suffer SI for six months and to pay compensation to the extent of Rs.3,00,000/-.

6 The cheque amount involved in the complaint is of Rs.1,50,000/- and thus, it appears that the First Appellate Court enhanced the compensation to the extent of Rs.3,00,000/-. Learned counsel for the applicant states that applicant is willing to deposit 50% of amount of Rs.1,50,000/-. It is contended that amount of Rs.34,000/- which comes to 20% of the amount of compensation is already deposited with the Sessions Court, and is willing to deposit balance payment of Rs.1,16,000/-.

7 Having considering facts as aforesaid, application is liable to be allowed by imposing following conditions.

ORDER

- (i) Applicant shall be released on bail on his executing PR.bond in the sum of Rs.25,000/- with one surety in like amount.
- (ii) Applicant shall be released on bail on depositing Rs.1,16,000/- before the Registrar, Sessions Court, Gr.Bombay.
- (iii) While on bail, applicant shall mark his presence with Juhu Police Station once in three months on first day of each such month, pending Revision Application.
- (iv) Applicant shall provide proof of his residential address, and shall update the same with the Investigating Officer if there is change in his residence in future.
- (v) Applicant shall not leave jurisdiction of this Court without prior permission.

Parties to act on a copy of this order duly authenticated by the Sheristedar of this Court.

(PN.DESHMUKH, J)