

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.594 OF 2016

IN

CRIMINAL REVISION APPLICATION NO.592 OF 2016

TULSIDAS LAXMANDAS BAIRAGI

)...APPLICANT

V/s.

SUBHASH BHARGAV NILVARNA & ANR.

)...RESPONDENTS

Mr.M.S.Mohite a/w. Mr.Shantanu R. Phanse and Mr.Sagar Tambe,
Advocates for the Applicant.

Mr.PH.Gaikwad-Patil, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 25th OCTOBER 2016.

P.C. :

1 Issue notice to respondents. Learned APP accepts notice
on behalf of respondent no.2 – State.

Notice to respondent no.1 / original complainant is made
returnable on **6th December 2016.**

2 Applicant, who is 71 years old and is stated to be a heart
patient, and is hospitalized, has filed this application for bail. Learned
counsel for applicant submits that application be heard and be allowed

in view of the fact that applicant having been convicted by the learned trial court, though had preferred appeal, same came to be dismissed by the appellate court and directions are issued to the trial court to take necessary steps against applicant for execution of sentence, which is for a period of 2 months, imposed by the trial court, under Section 138 of Negotiable Instruments Act. Learned counsel has thus contended that in the state of facts as aforesaid, and as applicant, against the cheque amount of Rs.15,50,000/-, has already deposited Rs.7,50,000/- with the appellate court, he be released on bail.

3 Record reveals that applicant came to be convicted under Section 138 of Negotiable Instruments Act and is sentenced to suffer simple imprisonment for 2 months and is directed to pay compensation of Rs.15,70,000/-. Admittedly, appeal is dismissed. It is found that applicant has deposited Rs.7,50,000/- before the appellate court. Considering the amount of compensation as aforesaid, thus, amount of Rs.8,20,000/- appears to be the balance amount of the amount of compensation.

4 In that view of the matter, and considering the short sentence imposed upon the applicant, application is liable to be

allowed on following conditions :

- i) Applicant shall be released on bail on his executing P.R.Bond in the sum of Rs.25,000/- with one surety in like amount, subject to his making payment of Rs.4,10,000/- (which is half of the amount of the balance amount of compensation) with the Sessions court. Above amount be deposited within four weeks from today. Registrar, Sessions court, to accept the same.
- ii) While on bail, applicant shall mark his presence with the local police station at Malegaon, within whose jurisdiction he is residing, once in six months, pending revision.

5 Application is disposed of accordingly.

(P N. DESHMUKH, J.)