

nsc.

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

CRIMINAL WRIT PETITION NO.3802 OF 2016

Sachin Anant Patil	...Petitioner
Versus	
Shriniwas Bandu Bendakhale and Anr.	...Respondents

Mr.Sachin Chavan, for the Petitioner.

Mr.S.R.Agarkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 27th OCTOBER, 2016

P.C. :

1. Heard learned Counsel for the petitioner.

2. By this petition, the Petitioner has impugned the Order dated 19th September, 2016, passed by the learned Additional Sessions Judge, Mangaon-Raigad, below Exhibit – 4 in Criminal Appeal No.34 of 2016.

3. The learned Additional Sessions Judge had suspended the sentence of imprisonment till the decision of the Appeal, on the condition that the petitioner deposits Rs.25,00,000/- towards part payment of fine in the Court, within 7 days from the date of the order and the balance Rs.38,00,000/- towards part payment of fine, within 2 months.

4. Learned Counsel for the petitioner states that the said order directing the petitioner to deposit a sum of Rs.63,00,000/- is extremely harsh and unreasonable. He submitted that the learned Additional Sessions Judge had directed the petitioner to deposit almost 50% of the compensation amount. He submitted that the petitioner has already deposited a sum of Rs.4,50,000/- in the trial Court, after he was convicted by the learned Judicial Magistrate First Class. He submitted that the petitioner is ready to deposit a further sum of Rs.26,00,000/- in 4 equal installments of Rs.6,50,000/- each starting today i.e. 27th October, 2016. He submitted that the petitioner will deposit an amount of Rs.26,00,000/-, within 2 months from today, in 4 equal installments, having a duration of 15 days in each installment.

5. Learned Counsel for the petitioner has tendered an undertaking of the petitioner - Sachin Anant Patil undertaking to deposit an amount of Rs.26,00,000/-, within 2 months from today, in 4 equal installments, having a duration of 15 days in each installment. The said undertaking is taken on record and marked 'X' for identification.

6. Perused the papers. The petitioner has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, by the learned Judicial Magistrate First Class, Mangaon, in Summary Case No.196 of 2013 and has been sentenced to suffer R.I. for 1 year and to pay fine of Rs.1,25,00,000/-, in default to undergo S.I. for 6 months. On realization of the fine amount a sum of Rs.1,20,00,000/- was directed to be paid to the respondent No.1 – complainant as compensation under Section 357(1) of the Code of Criminal Procedure. Against the said Judgment and Order of conviction and sentence the petitioner has filed an Appeal in the Sessions Court being Criminal Appeal No.34 of 2016. The petitioner had also preferred an application, being Exhibit – 4 seeking suspension of his sentence of imprisonment. The learned Additional Sessions Judge, Mangaon-Raigad, was pleased to direct the petitioner to deposit a sum of

Rs.63,00,000/-, within 2 months from today. It appears that the petitioner has already deposited a sum of Rs.4,50,000/- in the trial Court. Pursuant to the undertaking given by the petitioner today, the petitioner to deposit a sum of Rs.26,00,000/- in the Appellate Court. The said amount of Rs.26,00,000/- shall be deposited by the petitioner in 4 equal installments of Rs.6,50,000/- each, starting today with a duration of 15 days between each of the installments.

7. The petitioner to comply and abide by the undertaking tendered by him. A xerox copy of the said undertaking be placed on record of the Appellate Court during the hearing of aforesaid appeal.

8. Accordingly, the impugned the Order dated 19th September, 2016, passed by the learned Additional Sessions Judge, Mangaon-Raigad, below Exhibit – 4 in Criminal Appeal No.34 of 2016, stands modified to the extent, that the petitioner shall now deposit an amount of Rs.26,00,000/-, within 2 months from today, in 4 equal installments of Rs.6,50,000/- each, having a duration of 15 days in each installment, instead of Rs.63,00,000/-.

9. The petition is allowed and disposed of on the above terms.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.