

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

CRIMINAL WRIT PETITION NO.4222 OF 2016

Mehrunnish Huseni

.... Petitioner

versus

The State of Maharashtra & Anr.

... Respondents

Mr.Chaitanya Pendse, Advocate i/b. Sushant Narkar, Advocate for the Petitioner.

Mr.Yogesh Y. Dabke, APP for the State/Respondent.

CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 23rd DECEMBER, 2016.

P.C. :

1. In this criminal writ petition, the petitioner/original accused is challenging the order dated 16/09/2016 passed by the Sessions Court, Greater Mumbai, while suspending the sentence in the offence of 138 of N.I. Act, directing the petitioner/accused to deposit Rs.10,00,000/- on or before 10/10/2016. The learned counsel for the petitioner/accused has submitted that this petition has to be considered on humanitarian ground as the petitioner is a widow and 66 years old. He submitted that she is not keeping well through out. Her Haemoglobin level has gone down to 7.2 gm. She is the only person looking after the house. It is further submitted

by the learned counsel for the petitioner that the petitioner be given some time to deposit the amount in installments and no purpose will be served if the petitioner is taken in custody.

2. The learned counsel for the petitioner relies on the medical certificate of a private Doctor dated 03/12/2016 who has prescribed that the lady is suffering from severe Fibroids and needs surgery.

3. Perused the order of the learned Magistrate dated 16/09/2016 while suspending the sentence and directing the accused to deposit of Rs.10,00,000/- on or before 10/10/2016. The learned Magistrate while convicting the petitioner/accused has sentenced her to suffer simple imprisonment till arising of the Court and ordered to pay a fine of Rs.63,80,000/- against which she filed appeal. The amount of Rs.10,00,000/- which is directed by the learned Sessions Judge as a condition for suspension of sentence is not even 50% of the amount of the cheque.

4. On perusal of the medical papers I do not think that it

is very serious element. Moreover, earlier an application was made on 19/10/2016 for extension of the time to deposit the amount. However, the learned Sessions Judge, Greater Mumbai, passed a reasoned order dated 20/10/2016 and has rejected the said application. I do not find any reason to interfere in this order. In view of this writ petition is rejected.

(MRIDULA BHATKAR, J.)