

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 615 OF 2015

Mr. Radheshyam Jabbar Pandey ... Applicant
Vs.
The State of Maharashtra and another. ... Respondents

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Mr. Pankaj Kansara for the applicant.
Smt. Anamika Malhotra, Addl. Public Prosecutor for the State.

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CORAM : A.S.GADKARI, J.
DATE : APRIL 29, 2016.

P.C.:

1. Heard the learned counsel for the applicant.
2. Admit.
3. The applicant has been convicted under section 138 of the Negotiable Instruments Act, 1881 and has been sentenced to suffer simple imprisonment for six months by the learned 4th Judicial Magistrate First Class, Thane, in S.C.C. No.14197 of 2013 by its Judgment and Order dated 31/01/2015. By the same judgment and order, the Trial Court has also directed the applicant to pay compensation of Rs.57,00,000/- (Rupees Fifty Seven Lakhs only) to the complainant and in default of payment of compensation, the applicant was further directed to suffer simple imprisonment for one year. Criminal Appeal No.46 of 2015 preferred by the applicant has been dismissed by the learned Additional Sessions

Judge, Thane, by its Judgment and Order dated 23rd November, 2015.

4. The learned counsel for the applicant submitted that after dismissal of the appeal preferred by the applicant, he has been taken into custody on 29th February, 2016 to undergo the sentence imposed by the Trial Court. He further submitted that as of today, the applicant has already undergone the sentence of 61 days. The learned counsel for the applicant further submitted that as the applicant is in custody, he is unable to arrange for funds and could not deposit any amount either before the Trial Court or the Appellate Court. This Court by an order dated 28th March 2016, had directed the applicant to file an undertaking before this Court duly affirmed before the Jail Authorities stating that he will deposit atleast 25% of the amount of compensation directed by the Trial Court after his release from jail. The learned counsel for the applicant today has produced before this Court a certified copy of the undertaking dated 27th April 2016 executed by the applicant, stating therein the aforestated facts and duly affirmed by the applicant before the Superintendent, Thane Central Prison on 27th April 2016. The certified copy of the undertaking is taken on record and marked as 'X' for identification.

5. In view of the fact that the substantive sentence imposed upon the applicant is six months of simple imprisonment and that the applicant has already undergone 61 days of imprisonment till

today, the substantive sentence imposed upon the applicant is hereby suspended during the pendency of this Criminal Revision Application on the condition that the applicant shall deposit 25% of the amount of compensation awarded by the Trial Court within a period of three weeks from the date of his release from jail. If the applicant fails to deposit the amount in the Registry of this Court within the stipulated period, the suspension of sentence shall stand vacated without further reference to this Court.

6. The applicant be released on bail on his furnishing PR bond of Rs.25,000/- with one or two local sureties in the like amount to the satisfaction of the learned Trial Court.

7. Till the sureties are submitted and verification of the sureties is effected, it is hereby directed that the applicant be released on bail on his furnishing cash bail of Rs.25,000/- before the Trial Court. The applicant is permitted to furnish sureties within a period of three weeks from the date of his release from jail.

8. All concerned are directed to act on the authenticated copy of this order.

(A.S. GADKARI, J.)