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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO. 781 OF 2017**

Bashir Yasin Shaikh

..Applicant.

Vs.

State of Maharashtra

..Respondent

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Mr. Subhash Jha a/w Ms. Sanjana Pardeshi i/b Law Global for Applicant.  
Mr. M.G. Patil, APP for State.

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**CORAM: A.S. GADKARI, J.**

**DATE : 3<sup>rd</sup> April 2017.**

**P.C.**

**1]** This an application for bail in Summary Criminal Case No.194 of 2012 pending on the file of the learned Judicial Magistrate First Class, Shahapur, District-Thane under Section 138 of the Negotiable Instruments Act.

**2]** The record reveals that one Mr. Javed Shaikh has instituted the aforestated Summary Criminal Case under 138 of the Negotiable Instruments Act against M/s Global Impex, a proprietary concern of the applicant. As the applicant failed to attend the Trial Court on several

occasions, the Trial Court constrained the cancel the bail granted to the applicant and issued a non-bailable warrant by its Order dated 23.11.2014. The Trial Court subsequently issued a proclamation as contemplated under Section 82 of Cr. P.C. against the applicant. It appears from the record that the applicant thereafter filed an application bearing No.242 of 2017 under Section 482 of Cr. P.C. challenging issuance of Order of issuance non-bailable warrant. This Court by an Order dated 14.3.2017 was pleased to accept the statement made by the applicant that he will deposit the entire amount involved in the Summary Criminal Case before the Trial Court on or before 16.3.2017. That he will remain present before the Trial Court and shall move an application for cancellation of non-bailable warrant. The said period for hearing before the Trial Court was further extended by an Order dated 21.3.2017 and applicant was permitted to move the applicant for cancellation of non-bailable warrant and to deposit the amount on or before 23.3.2017. The applicant accordingly deposited the amount of Rs.3,00,000/- before the Trial Court by pay order and also filed application below Exhibit 69 dated 23.3.2017 for cancellation of non-bailable warrant. The learned Trial Court by its Order dated 24.3.2017 was pleased to reject the said application and took the applicant into judicial custody. The learned Trial Court while rejecting the said application was pleased observe

that, if the accused is released on bail, there is every possibility that the applicant may flee away and the said case will be prolonged.

3] I have perused the entire record annexed to the application. Pursuant to the Order dated 24.3.2017 passed by the Trial Court, the applicant is in jail custody since the said date. The record reveals that the applicant has already deposited rupees three lakhs which is the amount involved in the said Summary Criminal Case in the Registry of the Trial Court. The learned Counsel for the applicant on instructions submitted that the applicant shall attend each and every date before the Trial Court and will not seek exemption. The said statement is accepted.

According to me further incarceration of the applicant in jail custody is not necessary in summary criminal case instituted under Section 138 of the Negotiable Instruments Act. In view thereof, the Order dated 24.3.2017 passed by the Trial Court is hereby set aside and the applicant is directed to be released on bail.

Hence, the following Order:

- (i) The applicant be released on bail on his furnishing PR bond of Rs.50,000/- with one or more solvent sureties in the like amount.
- (ii) After his release from jail, the applicant shall attend the Trial Court on each and every date and shall co-operate in disposal of the

S.C.Case No.194 of 2012.

- (iii) After his released from jail, the applicant shall deposit his passport in the Registry of the Trial Court.
- (iv) The applicant is granted cash bail for a period of 4 weeks from today and during the said period, the applicant shall comply all formalities of submitting the aforesated sureties.
- (v) The Bail Application is allowed in the aforesaid terms.
- (vi) All the concerned to act on authenticated copy of this Order.

**(A.S. GADKARI,J.)**