

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPR) NO.127 OF 2017
IN
CRIMINAL REVISION APPLICATION NO.91 OF 2017

Sanjay s/o Potan Kshirsagar
..VS..
Ganesh s/o Ramdin Gadewar and anr

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri S.S. Tambulkar, Counsel for the applicant.
Shri N.B. Jawade, Addl.P.P. for non-applicant No.2/State.

CORAM : V.M. DESHPANDE, J.
DATED : JULY 18, 2017.

Heard learned counsel Shri S.S. Tambulkar for the
applicant and learned Additional Public Prosecutor Shri N.B.
Jawade for non-applicant No.2/State.

This is an application for suspension of
substantive jail sentence and for grant of bail.

The present applicant is convicted by learned
Judicial Magistrate First Class, Court No.3, Gondia on 21.3.2014
for the offence punishable under Section 138 of the Negotiable
Instruments Act, 1881 thereby the present applicant was
directed to suffer imprisonment for 2 years and to pay a fine of
Rs.1,50,000/- for each cheque total amounting to Rs.3,00,000/-.

The criminal appeal was carried by the present

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applicant before learned Sessions Judge at Gondia and same was registered as Criminal Appeal No.4 of 2014. On 30.6.2017, learned Sessions Judge partly allowed the criminal appeal. Though conviction under Section 138 of the Negotiable Instruments Act, 1881 was confirmed, learned Sessions Judge modified order of sentence passed by learned Magistrate and applicant was directed to suffer simple imprisonment for 3 months and to pay a fine of Rs.1,50,000/- and in default of payment of fine amount to suffer simple imprisonment for 6 months.

The present applicant is taken into custody on 13.6.2017 and since then he is in jail.

The applicant was on bail through out during the pendency of the complaint as well as during pendency of the criminal appeal.

Looking to the nature of quantum of substantive jail sentence, I think this Court should exercise discretion in favour of the present applicant, however, subject to condition that applicant deposits entire fine amount as directed by learned Sessions Judge at Gondia.

The criminal application for suspension of substantive jail sentence is allowed.

Substantive jail sentence, as imposed upon the present applicant by learned Sessions Judge at Gondia, in

Criminal Appeal No.4 of 2014 dated 30.6.2017, shall remain suspended during the pendency of the present criminal revision application.

The applicant shall be released on bail on he executing a P.R. Bond in the sum of Rs.5,000/- (rupees five thousand only) with one solvent surety.

Learned Judge of the Court below, before whom bail bond is to be executed, to ensure that entire fine amount of Rs.1,50,000/- is deposited before the applicant is released on bail.

With this, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!

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