

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

**CRIMINAL APPLICATION (APPP) NO.1393/2017 IN**  
**CRIMINAL APPLICATION (APPR) NO.135/2017**  
**IN CRIMINAL REVISION NO.136/2015 (D)**

Brijesh s/o Laltaprasad Tiwari ..vs.. Ritesh s/o Ramesh Laddha and anr.

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

Court's or Judge's orders.

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Mr. C. A. Joshi, Advocate for applicant.  
Mrs.K.R.Deshpande, A.P.P. for non applicant No.2-State.

**CORAM : V.M. DESHPANDE, J.**  
**DATED : AUGUST 23, 2017**

Heard learned counsel for the applicant and  
learned A.P.P. for non applicant no.2-State.

Issue notice to the non applicants, returnable  
on 04.09.2017.

Learned A.P.P. waives notice for non  
applicant no.2.

A complaint under Section 138 of the  
Negotiable Instruments Act was filed by the non  
applicant no.1 against the present applicant. The said  
complaint was culminated into the order of conviction  
and sentence by the learned Judicial Magistrate First  
Class, Court No.8, Akola in Summary Criminal Case  
No.53/2010 by which the present applicant was  
sentenced to suffer simple imprisonment of one month  
and to pay a fine of Rs.90,000/-

The aforesaid judgment and order of  
conviction was questioned by the applicant by filing

Criminal Appeal No.58/2013. During the pendency of the said appeal, the substantive jail sentence imposed upon the applicant was suspended by the learned lower appellate Court. The learned lower appellate Court on 09.10.2015 dismissed the appeal.

Against the said, Criminal Revision No.136/2015 was preferred before this Court. This Court on 20.11.2015, issued notices to the non applicants and allowed the application for suspension of substantive jail sentence by directing the applicant to deposit an amount of Rs.25,000/- in addition to the amount of Rs.35,000/- which was already deposited by the applicant.

This Court on 20.06.2017, dismissed the revision for want of prosecution.

Criminal Application No.135/2017 is filed by the applicant for restoration of Criminal Revision No. 136/2015 and on 01.08.2017, this Court has issued notices made returnable after two weeks. The matter was listed on 18.08.2017. On the said day, since the non applicant was not served, the matter is ordered to be placed after service.

In the meanwhile, the applicant has preferred the present application for suspension of substantive jail sentence. In the application, on oath the applicant has made a statement that the applicant has already deposited an amount of Rs.70,000/- out of Rs.90,000/- which was ordered to be paid by the learned Magistrate.

The applicant also shown his willingness to deposit Rs.20,000/- before this Court. It is further stated by Mr.C. A. Joshi, learned counsel for the applicant that in view of dismissal of revision in default, the learned Court below has issued warrant of arrest however as on today, the warrant is not executed. The said statement is accepted.

In view of the fact that as on today, the warrant is not executed against the present applicant, by way of ad interim relief, following order is passed.

The substantive jail sentence imposed upon the applicant in Summary Criminal Case No.53/2010 by Judicial Magistrate First Class, Court No.8, Akola on 07.05.2013 shall remain suspended until further orders.

The warrant which is issued against the applicant if it is not executed then the said warrant of arrest shall not be executed against the applicant.

The applicant to deposit Rs.20,000/- within 10 days from today before this Court without fail.

Put up this matter on 04.09.2017.

Hamdast granted.

**JUDGE**