

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

**CRIMINAL APPLICATION NO.28 OF 2018
AND
CRIMINAL APPLICATION NO.29 OF 2018
IN
CRI. REVISION APPLICATION NO.42 OF 2018**

Mangesh Tukaram Sawant

.. Applicant

Vs.

The State of Maharashtra & Anr.

.. Respondents

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Ms.Sonal Parab a/w. Ms.Priyanka Ahuja i/b. M/s.Rajeev Sawant & Associates, Advocate for the Applicant.

Mr.S.S. Pednekar, APP for the Respondent – State.

Mr.Manohar Ramsinghani i/b. Mr.Abdul Kader Millwala, Advocate for Respondent No.2.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 6, 2018.

P.C. :

Applicant has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. Applicant was prosecuted in Criminal Case No.969/SS/2010.

2 The present application is preferred in connection with the judgment and order of conviction dated 7th March, 2014,

passed by the learned Metropolitan Magistrate 63rd Court, Andheri, Mumbai, convicting the applicant for the aforesaid offence which conviction has been confirmed by the Sessions Court by judgment and order dated 9th January, 2018. Vide common order dated 12th January, 2018, this Court had directed the applicant to deposit an amount of Rs.50,00,000/- towards compensation. The said amount was to be deposited on or before 29th January, 2018 in this Court. It was further directed that the applicant shall deposit the entire amount of compensation *qua* the amount of cheque of Rs.9 crores on or before 4th May, 2018. Applicant was directed to submit schedule for depositing the balance amount.

3 Learned advocate for the applicant submits that as per the directions the amount of Rs.50,00,000/- has been deposited in this Court on 29th January, 2018.

4 Learned advocate for the applicant has also tendered the undertaking before this Court stipulating the schedule for depositing the balance amount (undertaking dated 27th January, 2018). The schedule indicates that Rs.1,00,00,000/- shall be deposited on or before 28th February, 2018, Rs.2,00,00,000/- shall

be deposited on or before 31st March, 2018 and the balance amount of Rs.2,99,75,000/- shall be deposited on or before 4th May, 2018. The undertaking is taken on record and marked "X" for identification.

5 Applicant has also deposited an amount of Rs.2,50,25,000/- towards compensation amount before the trial Court. Considering the aforesaid aspects, the applications for suspension of sentence is required to be allowed subject to the conditions stipulated hereinbelow.

:: ORDER ::

- (i) The sentence of imprisonment awarded by the learned Metropolitan Magistrate vide judgment and order dated 7th March, 2014, passed by the Metropolitan Magistrate 63rd Court, Andheri, Mumbai, which is confirmed by the Sessions Court vide judgment and order dated 9th January, 2018 in C.C. No.969/SS/201 is suspended and the applicant is directed to be released on bail on furnishing P.R. Bond in the

sum of Rs.25,000/- with one or more sureties in the like amount;

- (ii) In case of any breach of undertaking submitted to the Court particularly in depositing the amount, this interim order shall stand vacated;
- (iii) Applicant is directed to comply the undertaking submitted to this Court;
- (iv) Criminal Application stands disposed of;
- (v) For compliance of the undertaking with respect to depositing the amount, stand over to 5th March, 2018.

(PRAKASH D. NAIK, J.)