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

**WRIT PETITION NO.475 OF 2018**

|                                   |                |
|-----------------------------------|----------------|
| Anil Dagadu Phale                 | ...Petitioner  |
| Versus                            |                |
| Dnyandev Dattatray Patil and Anr. | ...Respondents |

Mr.S.S.Shah, for the Petitioner.

Mr.S.R.Shinde, A.P.P for the Respondent No.2-State.

***CORAM : REVATI MOHITE DERE, J.***

***DATE : 22<sup>nd</sup> FEBRUARY, 2018***

**P.C. :**

1. Heard learned counsel for the parties.
  
2. By this petition, the petitioner has impugned the order dated 13<sup>th</sup> November, 2017, passed by the learned Additional Sessions Judge, Pune, below Exhibit – 5, in Criminal Appeal No.562 of 2017, by which the learned Judge was pleased to direct the petitioner to deposit the entire fine amount of Rs.7,00,000/-, in four installments of Rs.1,75,000/-, each, within two months.

3. Learned Counsel for the petitioner submits that the condition directing the petitioner to deposit the entire amount is harsh, onerous and unreasonable. He relied on the Judgment of the Apex Court in the case of ***Dilip S. Dahanukar v/s Kotak Mahindra Company Limited and Anr.***<sup>1</sup>

4. Perused the paper. The petitioner is convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and has been directed to pay fine of Rs.7,00,000/-; out of the said fine amount, the petitioner was directed to pay compensation under Section 357(1) of the Code of Criminal Procedure. Being aggrieved by the Judgment and Order of conviction and sentence dated 10<sup>th</sup> October, 2017, passed by the learned 21<sup>st</sup> Judicial Magistrate First Class, Pune, the petitioner filed an appeal being Criminal Appeal No.562 of 2017 alongwith an application (Exhibit – 5), for suspension of his sentence, pending the hearing and disposal of his Appeal. Pursuant thereto, the learned Sessions Judge was pleased to allow the application (Exhibit – 5) and was pleased to suspend the substantive sentence, till the Appeal period, on the petitioner depositing the fine amount of Rs.7,00,000/-, in four installments of Rs.1,75,000/-, each, within two months.

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5. The said condition directing the petitioner to deposit the entire fine amount is harsh, onerous and unreasonable, more particularly, when the statutory Appeal is pending before the learned Additional Sessions Judge, Pune. It is informed that the petitioner has already deposited Rs.1,75,000/- in the Sessions Court.

6. Accordingly, the impugned order dated 13<sup>th</sup> November, 2017, passed by the learned Additional Sessions Judge, Pune, below Exhibit – 5, in Criminal Appeal No.562 of 2017, stands modified. As the petitioner has already deposited Rs.1,75,000/- in the Sessions Court, the petitioner is not required to deposit any further amount.

7. The Petition is allowed in the aforesaid terms and is accordingly disposed of.

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

***REVATI MOHITE DERE, J.***