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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.442 OF 2018

Ramdas Abasaheb Deshmukh ..Applicant.

V/s.

Vishwas Narayan Devkate & Anr. ..Respondents.

Mr.Chaitanya Malgaonkar i/b. GMS Legal for the applicant.

Mr.H.J. Dedhia, APP for the respondent-State.

CORAM: NITIN W.SAMBRE, J.

DATE : APRIL 26, 2018

PC.:-

The present applicant is an accused for an offence punishable under section 138 of the Negotiable Instruments Act, 1881 ('the Act' for short) who was convicted vide judgment and order dated March 16, 2017 passed by the learned Judicial Magistrate First Class, Baramati, Pune in Summary Criminal Case No.663/2007 and compensation amount of Rs.16,15,000/- came to be awarded. Criminal Appeal No.21/2017 was preferred against the said conviction before the Sessions Judge, Pune. In the said appeal, the applicant filed application Exhibit-5 for suspension of

sentence and release on bail. The applicant was directed to be released on condition that he shall deposit Rs.5 lakhs as part of the compensation awarded by order dated April 6, 2017.

2. The said order was subject matter of challenge in Criminal Revision Application No.482 of 2017 as it appears that the amount of Rs.5 lakhs was not deposited. The applicant was again enlarged on bail by order dated February 9, 2018 passed in the said revision. Time was granted to deposit the amount of Rs.5 lakhs with costs of Rs.20,000/-. It is claimed by the applicant-accused that the amount of Rs.5 lakhs was deposited, however, cost of Rs.20,000/- was not deposited because of some miscommunication. Even efforts made to tender the said amount to the complainant remained unfruitful. As a consequences, the application for extension of time to deposit the cost was rejected by the learned Sessions Judge on March 17, 2018. On March 19, 2018 the learned District Judge, Baramati again rejected the request for deposit of cost. As such, this revision. It is informed that the applicant is ready and willing to deposit additional costs for the default committed by him.

3. The applicant volunteers that he shall deposit cost of Rs.50,000/- which includes cost of Rs.20,000/- in the Court of Additional Sessions Judge, Baramati in Criminal Appeal No.21/2017 where the award of compensation is deposited.

4. The applicant claims to demonstrates his bonafides by submitting a cheque in the name of Additional Sessions Judge, Baramati for an amount of Rs.50,000/- vide cheque No.865059 dated April 26, 2018 drawn on State Bank of India, Solapur.

5. Considering the bonafides demonstrated by the applicant, as it is mainly restricted to payment of costs to the complainant, respondent No.1 herein, issuance of notice to respondent No.1 is dispensed with.

6. In the aforesaid backdrop, the applicant shall appear before the learned Additional Sessions Judge on May 4, 2018 and shall tender the aforesaid cheque which is given in the custody of the learned counsel for the applicant.

7. The learned Sessions Judge shall accept the said cheque amount and if required direct appropriate corrections or

issuance of a fresh demand draft in appropriate name.

8. The learned Sessions Judge may order appropriation of the amount of costs as he deems fit in the facts and circumstances of the case.

9. There shall be suspension of sentence and the applicant be admitted to bail on the same terms on which he was ordered to be released by the trial Court till the final disposal of the appeal.

10. Liberty to the learned Sessions Judge to order cancellation of bail in case the applicant accused fails to co-operate in expeditious disposal of the appeal.

11. With the above observations, the application stands disposed of.

(NITIN W.SAMBRE, J.)