

Vidya Amin.

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

CRIMINAL APPLICATION NO. 246 OF 2018
WITH
CRIMINAL APPLICATION NO. 247 OF 2018
IN
CRIMINAL REVISION APPLICATION NO. 251 OF 2018**

M/s. Shree Balaji Syncot Pvt. Ltd. & Anr. ... Applicants

VS.

M/s. RML Sons & Anr. ... Respondents

Mr. H.H. Nagi a/w. Chawla Solanki, Mr. S.K. Dube I/b. H.H. Nagi & Associates, Advocate for the applicants.

Mrs. Rutuja Ambekar, APP for the respondent no. 2/State.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 24th October, 2018**

P.C. :

Upon mentioning, taken on production board.

2. Applicant no. 1 is a company and Applicant no. 2 is the Managing Director of the said company, who is convicted for the offences punishable under section 138 of the Negotiable Instruments Act and is sentenced to suffer rigorous imprisonment for 2 months and fine of Rs.5,000/- is imposed on applicant/accused no. 1-company by the judgment and order dated 21st April, 2007 by the learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai. The learned Metropolitan Magistrate has

further directed the accused to pay fine of Rs.29,20,000/- within two months from the date of the order and in default, the accused is sentenced to undergo rigorous imprisonment for six months. Aggrieved by the said order, the applicants/accused filed Criminal Appeal No. 426 of 2017. The learned Additional Sessions Judge, City Civil & Sessions Court, Greater Mumbai by judgment and order dated 27th March, 2018, while dismissing the Criminal Appeal, thereby confirmed the order of conviction and sentence passed by the learned Metropolitan Magistrate. Applicant/accused no. 2 was not taken in custody pursuant to the said judgment and now the warrant of conviction is issued by the learned Metropolitan Magistrate Court. Hence, this Revision Application is filed along with the Application for bail and the Application for suspension of sentence.

3. The learned counsel for the applicants has submitted that the applicants have deposited Rs.3,42,000/- in the Metropolitan Magistrate Court till today. He submitted that the applicants are ready to deposit Rs.10,00,000/- in installments. He submitted that the applicant no. 2 was on bail throughout the trial and appeal period and that the applicants have good case on merits.

4. Learned APP submits to the order of the Court.
5. In view of the submission of the learned counsel for the applicants and considering the nature of the offence and that the applicant no. 2 was on bail throughout the trial and appeal period, the Application for bail and the Application for suspension of sentence are allowed with following order:
 - (i) The sentence is hereby suspended;
 - (ii) The applicants/accused shall surrender before the Metropolitan Magistrate on 30th October, 2018 at 11.00 a.m. for cancellation of warrant. After producing the receipt of payment of first instalment of Rs.2,50,000/-, the learned Magistrate to consider the cancellation of warrant;
 - (iii) The applicants/accused shall deposit further Rs.7,50,000/- on or before 30th November, 2018;
 - (iv) The applicant/accused to surrender before the Magistrate on 30th October, 2018 and is to be enlarged on bail on furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like

amount;

- (v) The sentence is suspended and bail is granted, as the statement of payment of Rs.10,00,000/- is made by the learned counsel for the applicants.

6. Criminal Applications are disposed of on above terms.

(MRIDULA BHATKAR, J.)