

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

**CRIMINAL APPLICATION NO.317 OF 2018
WITH
CRIMINAL APPLICATION NO.318 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.341 OF 2018**

Mehrunnish Huseni ... Applicant

Vs.

Farook Abbas Shaikh & anr. ... Respondents

Mr.R.S. Datar I/b R.D. Oak for the Applicant
Mr.Akram Kapoor for Resp. No.1
Ms.Rutuja Ambekar, APP, for the Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: OCTOBER 15, 2018

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. The application for bail is moved by the applicant, who is convicted for the offence punishable u/s 138 of the Negotiable Instruments Act by order dated 23.6.2016 by the learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai in C.C. No.2751/SS/2013 wherein the accused is sentenced to suffer R.I. till rising of the Court and to pay fine of Rs.63,80,000/- within two

months from the date of the order and in default to suffer S.I. for four months. Also, the out of the fine amount of Rs.10,000/- was to be paid to the Government and the remaining Rs.63,70,000/- was to be paid to the complainant as compensation. The applicant challenged the said order of conviction by filing appeal No.732 of 2016 before the learned Sessions Judge, Greater Mumbai, which was dismissed by order dated 4.6.2018 by the learned Additional Sessions Judge, Greater Mumbai. Till date, the applicant is not taken in custody.

3. The learned Counsel for the applicant submitted that the applicant is a lady and is ready to deposit some amount though she has a very good case on merits. He further submitted that the applicant has deposited Rs.11 lakhs at the time of obtaining the first appeal before the learned Sessions Judge, after conviction. Today, a total amount of approximately Rs.52 lakhs plus interest is due as per the impugned order.

4. The learned Counsel for the complainant while opposing the applications, has submitted that the complainant is prosecuting this issue since 2013 and he has concurrent orders in his favour.

5. Considered the submissions of the learned Counsel for both the sides. The offence is bailable and hence, the applications are allowed on the following terms:

- i) The applicant/accused be released on bail upon furnishing a bond in the sum of Rs.15,000/- with one surety in the like amount. However, the applicant/accused shall deposit a sum of Rs.25 lakhs i.e., Rs.10 lakhs on or before 29th October, 2018; amount of Rs.5 lakhs on or before 13th November, 2018 and thereafter, further amount of Rs.10 lakhs on or before 28th November, 2018. All the amounts are to be deposited with the Sessions Court, Greater Mumbai.
- ii) The above amount of Rs.25 lakhs is a condition precedent for confirming the interim bail which is granted herein. Further, the amount of Rs.25 lakhs, as stipulated above, shall be deposited strictly as per the schedule.
- iii) It is made clear that in the event of failure to comply with the above conditions, the bail will be cancelled.

6. All the Applications are disposed of accordingly.

(MRIDULA BHATKAR, J.)