

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

**CRIMINAL APPLICATION NO.433 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.454 OF 2018**

WITH

**CRIMINAL APPLICATION NO.434 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.454 OF 2018**

Prem Shetty

... Petitioner

Vs.

The State of Maharashtra & anr.

... Respondents

Mr.Ashish Chavan with Adithya Iyer, Aishwarya Kantawala, Kunal Shinde for the Petitioner

Ms.Rutuja Ambekar, APP, for the Respondent – State

Mr.Iram Memon with Shoait Memon for Resp. No.2

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: OCTOBER 30, 2018

P.C.:

1. The applicant/accused is convicted under section 138 of the Negotiable Instruments Act and sentenced to suffer 3 months S.I. and fine of Rs.10,50,000/- and i/d to suffer S.I. for another 3 months. It is further directed that the amount of Rs.10,40,000/- is

to be considered as compensation to be paid to the complainant and the amount of Rs.10,000/- was to be credited to the Government. This order was passed by the learned Metropolitan Magistrate 48th Court, Andheri, Mumbai on 21.2.2014 which was confirmed by the learned Sessions Judge by order dated 12.7.2018 by dismissing the Criminal Appeal No.239 of 2014. Hence, this revision and application for bail and suspension of sentence.

2. The learned Counsel for the applicant/accused submits that the applicant/accused was on bail throughout the trial. It is a bailable offence. He has deposited 20% of the amount at the time of considering the bail, when bail was granted by the first appellate Court and hence, he be granted bail.

3. The learned Counsel for the respondent/original complainant while opposing the application, submits that the complainant is prosecuting this matter since 2014 for an amount of Rs.10,40,000/-.

4. The learned Prosecutor submits to the orders of the Court.

5. In view of the submissions and considering the nature of the offence, the following order is passed:

i) The impugned conviction and sentence dated 21.2.2014 is suspended, pending revision.

ii) The applicant/accused shall deposit Rs.5 lakhs in the Court of learned Magistrate, 48th Court, Andheri, Mumbai on or before 13.11.2018 and a receipt or challan of the said deposit is to be produced before the learned Magistrate before surrendering in the Court of the learned Magistrate.

iii) Thereafter, the learned Magistrate to consider cancellation of the non-bailable warrant and also the application for bail.

6. Criminal application Nos.433 of 2018 and 434 of 2018 are disposed of accordingly. Liberty is given to the complainant to move application before the learned Magistrate for withdrawal of the amount deposited by the accused.

(MRIDULA BHATKAR, J.)