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

WRIT PETITION NO.5181 OF 2017

M/s.Prathamesh Construction	
Through Ajit Singh - Proprietor	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Mr. R.M.Yamgar, for the Petitioner.

Mr.H.J.Dedhia, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 12th JANUARY, 2018

P.C. :

1. Heard learned Counsel for the parties.
2. By this petition, the petitioner has impugned clause 2(i) of the order dated 27th November, 2017, passed by the learned Additional Sessions Judge, City Civil and Sessions Court, Greater Mumbai in Bail Application No.1852 of 2017 in Criminal Appeal No.731 of 2017.
3. Perused the papers. The petitioner was prosecuted in connection with an offence punishable under Section 138 of the Negotiable

Instruments Act. The Trial Court vide Judgment and Order dated 28th October, 2017, convicted the petitioner for the offence under Section 138 of the Negotiable Instruments Act and sentenced him to suffer Simple Imprisonment for 3 months and to pay a fine of Rs.7,00,000/-, in default to undergo simple imprisonment for 3 months. Till the realization of the said amount, the petitioner was further directed to pay simple interest @ 9% per annum. The said Judgment and Order dated 28th October, 2017, passed by the trial Court was challenged by the petitioner in Appeal, being Criminal Appeal No.731 of 2017. In the said appeal, the petitioner filed an application seeking his enlargement on bail, pursuant to which, the learned Judge was pleased to pass the following order:

“1. Bail application no.1852/2017 is allowed.

2. The Appellant/Accused Ajit Singh shall be released on bail on furnishing PR and SB Bond of Rs.15,000/- with one surety of like amount with following conditions:-

(i) The applicant shall deposit a sum of Rs.2,50,000/- (Rs.Two Lacs Fifty Thousand) within a period four weeks from today.

(ii)The appellant shall attend the Court dates regularly, without fail.

3. Thus, Bail Application no.1852/17 stands disposed of.”

4. Admittedly the cheque amount was Rs.3,50,000/- whereas the compensation awarded was about Rs.7,00,000/-. It is informed that the petitioner's account has been frozen and as such the petitioner is facing great financial difficulty and hardships and that he cannot deposit the said amount of Rs.2,50,000/-. Learned Counsel for the petitioner also relied on the Judgment of the Apex Court in the case of ***Dilip S. Dahanukar v/s Kotak Mahindra Company Limited and Anr.***¹

5. In the peculiar facts of this case, considering the aforesaid, clause 2(i) of the order dated 27th November, 2017, stands modified to the extent that 'the applicant shall now deposit Rs.1,50,000/- in the Sessions Court within four weeks from today'. It is made clear, that no further extension will be granted. Rest of the conditions imposed vide order dated 27th November, 2017 to remain as it is. Time to furnish bail is extended by a period of two weeks. Hearing of Criminal Appeal No.731 of 2017, is also expedited.

1 (2007) 6 SCC 528

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

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

REVATI MOHITE DERE, J.