

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.2026 OF 2019

Kalpesh s/o Dinkarrao Patil  
Age: 35 Yrs., ocu. Business,  
R/o Plot No. 26, Mayur Colony,  
Motibag Bangla, Devpur Road,  
Dhule, Tq. & Dist. Dhule. = PETITIONER

versus

1. The State of Maharashtra.
2. Shri Swami Narendra Nagari  
Sahakari Patsanstha Ltd.  
Shop No.4/5, N-6, CIDCO,  
Aurangabad. = RESPONDENTS.

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Mr.Dhananjay A.Naik, Adv. For Petitioner.  
Mr.AR Kale, APP for Respondent No.1-State.

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CORAM : SMT.VIBHA KANKANWADI, J.  
DATE : 19<sup>th</sup> DECEMBER, 2019.

ORAL JUDGMENT:-

1. Rule. Rule made returnable forthwith  
with consent of learned counsel for the parties.

2. The present petition has been filed for  
setting aside order dated 10.12.2019 passed by  
learned Additional Sessions Judge-6, Aurangabad in  
Criminal Appeal No. 193/2019 and to extend time of  
two months to the petitioner-applicant to deposit  
20% of the compensation amount granted as per the

order dated 25.11.2019 passed on the application under Section 389 of Cr.P.C. for suspension of the sentence.

3. The petitioner contends that he has been convicted by the Judicial Magistrate First Class, Court No. 10, Aurangabad in SCC 3169/2015 dated 14.10.2019 and compensation under Section 357(3) of the Code of Criminal Procedure for payment of compensation of Rs.8,00,000/- has been imposed. He has challenged the said conviction in criminal appeal before the learned Additional Sessions Judge. He has prayed for suspension of sentence and by order dated 25.11.2019, the suspension of sentence was granted subject to depositing of 20% of the compensation amount within eight days. Thereafter, on the same day, he filed an application for extension of time of eight days and by subsequent order, the said period has been extended to fifteen days. The applicant has now come with the case that he could not arrange for the amount and, therefore, by another application dated 10.12.2019, he prayed for further extension. The said application was objected by the

complainant and after hearing both sides, the application was rejected by the learned Additional Sessions Judge. Hence, this petition.

4. At this stage itself, it is made clear that it is not necessary to hear the respondent when it comes to suspension of sentence. But, as regards extension of time is concerned, that could have been liberally considered when naturally the complainant would be interested in money being deposited. Taking into consideration the fact that the present petitioner was on bail throughout the trial and the suspension of sentence is made subjective to the depositing of the 20% of the compensation, the learned Additional Sessions Judge ought to have extended the time for some period only in order to give one more chance for the accused to collect the amount. Therefore, without going much further in merits and as the point involved is very much limited, the writ petition stands partly allowed. Rule is made absolute in above terms. Time to deposit the amount of 20% of the compensation amount of Rs.8,00,000/-, is extended by seven days.

5. It is made clear that if the said amount

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is not deposited within the stipulated period of seven days from today, then the Additional Sessions Judge may take further legal recourse.

**(SMT. VIBHA KANKANWADI,J.)**

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