

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 37 OF 2018

WITH

CRIMINAL APPLICATION NO. 38 OF 2018

IN

CRIMINAL REVISION APPLICATION NO. 52 OF 2018

Kashyap C. Chanarana

..Applicant.

V/s.

The State of Maharashtra and Anr.

..Respondent.

Ms. Shaista Pathan I/b Jatin Shah for the applicant.

Mr. Gautam Tiwari I/b Probus Legal for respondent no.2.

Mr. R.M. Pethe, APP for State.

CORAM: A.S. GADKARI, J.

DATE : 5th July, 2019

P.C.:-

These are the applications for suspension of sentence and for releasing the applicant on bail.

2 The applicant is convicted under section 138 of the Negotiable Instruments Act, 1881 and was sentenced to suffer simple imprisonment for one month and to pay compensation of

Rs.10,91,970/- along with simple interest at the rate of 9% from the date of issuance of cheque till its actual realization of entire amount plus Rs.10,000/- towards costs to the complainant, in default of payment of compensation, to suffer simple imprisonment for three months, by the learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai in CC No.1540/SS/2010 by its judgment and order dated 31st December, 2015.

3 The learned Additional Sessions Judge, Greater Mumbai in Criminal Appeal No. 180 of 2016 preferred by the applicant was pleased to partly allow the said appeal and while confirming the conviction of the appellant, has set aside the sentence of simple imprisonment for one month. The Appellate Court has imposed fine of Rs.50,000/- upon the applicant.

As far as the order of payment of compensation is concerned, the Appellate Court has maintained the said order passed by the Trial Court.

4 The learned Counsel appearing for the applicant submitted that the applicant has already deposited the fine amount

with the Trial Court and has deposited an amount of Rs.54,590/- in the Registry of the Appellate Court out of the total amount of compensation.

5 In view thereof, the applicant is directed to deposit the balance compensation amount of Rs.10,40,000/- in the Registry of the Appellate Court within a period of four weeks from today.

Subject to deposit of the said compensation amount, the substantive sentence imposed upon the applicant is hereby suspended during the pendency of the present revision application.

6 It is needless to mention that, the deposit of the compensation amount by the applicant during the pendency of the revision is subject to final outcome of the present revision application and the same is without prejudice to the rights and contentions of the applicant.

7 Application is allowed in the aforesaid terms.

8 All the concerned to act on the basis of an authenticated copy of this Order.

(A.S. GADKARI, J.)