

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL APPLICATION NO. 40 OF 2019**  
**IN**  
**CRIMINAL REVISION APPLICATION NO. 31 OF 2019**

|                                        |                |
|----------------------------------------|----------------|
| M/s. Enicar Logistics Pvt. Ltd. & Anr. | ..Applicants.  |
| V/s.                                   |                |
| The State of Maharashtra & Anr.        | ..Respondents. |

Mr. Pravin Patel for the applicants.

Mr. R.M.Pethe, APP for the State/respondent No.1.

Mr. Harshal Suryawanshi for respondent No.2.

**CORAM: A.S. GADKARI, J.**

**DATE : 5<sup>th</sup> July, 2019.**

**P.C.:-**

This is an application for suspension of sentence and for releasing the applicant on bail.

2           The applicant has been convicted under section 138 of the Negotiable Instruments Act, 1881 and was sentenced to suffer rigorous imprisonment for 1 (one) month and to pay compensation of Rs.25,00,000/- (Rs.Twenty Five lakhs only) to the complainant

and in default of payment of compensation to further suffer rigorous imprisonment for 6(six) months by the learned Metropolitan Magistrate, 63<sup>rd</sup> Court, Andheri, Mumbai in CC No.1903/SS/2010 by its judgment and order dated 18<sup>th</sup> June, 2014.

The Criminal Appeal No. 645 of 2014 preferred by the applicant has been turned down by the learned Additional Sessions Judge, Gr. Mumbai by its judgment and order dated 30<sup>th</sup> November, 2018.

3           The learned counsel for the applicant has filed additional affidavit dated 5<sup>th</sup> July, 2019 thereby placing on record the fact that the applicants till date has deposited a sum of Rs.5,80,000/- (Rupees Five Lakh Eighty Thousand only) in the Registry of the Trial Court. The learned counsel appearing for the respondent-complainant submitted that the receipts annexed to the application for an amount of Rs.30,000/- have been issued prior to passing of the impugned judgment and order by the Trial Court on 18<sup>th</sup> June, 2014 and therefore, the said amount cannot be taken into consideration.

4           *Prima-facie* I find substance in said submission, however,

the fact remains that as of today the applicant has deposited a sum of Rs.5,50,000/- in the Registry of the Trial Court out of the total amount of the compensation. The trial court has awarded compensation of Rs.25,00,000/- in favour of respondent no.2-complainant. In view thereof, the applicant is directed to further deposit an addition sum of Rs.10,00,000/- lakhs to the Registry of Trial Court. It needless to mention that the said deposit will be without prejudice to the rights and contentions of the applicant to be raised at the time of final hearing of present revision application.

5           The learned counsel for the applicant, on instructions, submitted that the applicant out of Rs.10,00,000/- will deposit a sum of Rs.5,00,000/- in the Registry of the Trial Court within a period of two weeks from today and the balance amount of Rs.5,00,000/- will be deposited within a period of four weeks thereafter. Thus, the said amount of Rs.10,00,000/- will be deposited in the Registry of the Trial Court within a period of six weeks from today. The said statement is accepted.

6           In view of the statement made by the applicant through

his counsel before this Court, I am inclined to suspend the sentence imposed upon the applicant and to release him on bail.

Hence the following order-

- a) During the pendency of the Revision Application, the substantive sentence imposed upon the Applicant is hereby suspended.
- b) During the pendency of the Revision Application, the Applicant be released on bail on his furnishing PR bond of Rs.10,000/- with one or two local sureties in the like amount.
- c) The procedure for the bail be complied before the Trial Court i.e. Metropolitan Magistrate, 63<sup>rd</sup> Court, Andheri, Mumbai

7 It is further made clear that, if the applicant fails honour his solemn statement made before this Court of deposit of said amount of Rs.10,00,000/- within stipulated period mentioned herein-above, the order suspending the substantive sentence and releasing him on bail shall stand revoked without further reference

to this Court.

It is further made clear that the period to deposit the aforesaid amount shall not be extended on any ground as the applicant has made the said statement after seeking time for reflection from this Court in that behalf.

8           Application is allowed in the aforesaid terms.

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

**( A.S. GADKARI, J. )**