

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

**CRIMINAL APPLICATION NO.109 OF 2019
IN
CRIMINAL REVISION APPLICATION NO.108 OF 2019**

Yeshwant Shivanand Rao ..Applicant
V/s.
Hasmukh Gala & Anr. .. Respondents

Mrs.Yogita Gogar i/by Ms.Neha Chhajalane for the
Applicant.

Mr.Jagdish Choudhary a/w Mr.Ranvir Shekhawat for
Respondent No.1.

Mr.R.M. Pethe, APP for the Respondent No.2-State.

CORAM : A. S. GADKARI, J.

DATE : 18th SEPTEMBER 2019

P.C.

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

2. The applicant is convicted under Section 138 of the Negotiable Instruments Act and is sentenced to suffer simple imprisonment for three months and to pay a fine of Rs.10,00,000/- to the complainant, by the learned Metropolitan Magistrate, 53rd Court, Mulund, Mumbai, by its Judgment and Order dated 22nd April 2016 passed in

CC No.152/SS/2010.

The Criminal Appeal No.418 of 2016 preferred by the applicant has been turned down by the learned Additional Sessions Judge, Greater Mumbai, by its Judgment and Order dated 15th January 2019.

3. The learned counsel for the applicant submitted that, during the pendency of the Appeal, the applicant has deposited sum of Rs.2 lakhs out of the total amount of compensation in the Registry of the Appellate Court.

4. As the maximum sentence imposed upon the applicant is three months of simple imprisonment and the possibility of hearing the Revision Application on its own merits in near future is remote, I am inclined to suspend the substantive sentence imposed upon the applicant and to release him on bail subject to condition that the applicant shall deposit an additional sum of Rs.3 lakhs in the Registry of Appellate Court within a period of two weeks from today.

5. Hence, following order :

(i) During the *pendency* of the present Revision Application, the substantive sentence imposed upon the applicant is hereby suspended.

(ii) During the *pendency* of the Revision Application, the applicant is released on bail on the following terms and conditions.

- (a) The applicant be released on bail on his furnishing PR Bond of Rs.15,000/- with one or two local sureties in the like amount.*
- (b) The procedure for bail be complied with before the trial Court.*
- (c) It is made clear that, if applicant fails to deposit amount of Rs.3 lakhs in the Registry of the Appellate Court within stipulated period the order of suspension of sentence and releasing the applicant on bail shall stand revoked without further reference to this Court. In such an event the complainant will be at liberty to seek execution of judgment and order dated 22nd April 2016 passed by the Trial Court.*

6. Application is allowed in the aforesaid terms.

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

(A.S. GADKARI, J.)