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

**CRIMINAL APPLICATION NO. 327 OF 2019
IN
REVISION APPLICATION NO. 324 OF 2019**

Baban Keru Aher

..Applicant

Vs

Ajit Vishnu Phatak Deceased through LRs

..Respondents

Mr. Sachin Kadam for the Applicant.

Ms. Geeta Mulekar, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 1st July 2019.

P.C.:

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

2] Heard the learned Counsel for the applicant and the learned APP. Perused the record.

3] The applicant is convicted under Section 138 of the Negotiation Instruments Act and was sentenced to suffer simple imprisonment for six months and to pay fine of Rs.1,75,000/-000/-, in default of which to further undergo simple imprisonment for two months by the learned Judicial Magistrate First Class, Court No.3, Nashik in S.C.C. No.4838 of

2014 by its Judgment and Order dated 15.7.2016.

Criminal Appeal bearing No.150 of 2016 preferred by the applicant has been dismissed by the learned Additional Sessions Judge, Nashik, by its Judgment and Order dated 26th June 2019.

4] The learned counsel for the applicant submitted that, during the pendency of the present application, out of total fine amount of Rs.1,75,000/-, the applicant has deposit Rs.88,000/- in the Registry of the Appellate Court. He on instructions submitted that, the applicant will deposit the balance fine amount i.e. Rs. 87,000/- in the Registry of the Appellate Court before his actual release from jail. The said statement is accepted.

5] As the maximum sentence imposed upon the applicant is six months of simple imprisonment and the possibility of present Revision being heard on its own merits in near future is remote, I am inclined to suspend the substantive sentence imposed upon the applicant and release him on bail.

Hence the following Order:

- (i) During the pendency of the present Revision, the substantive sentence imposed upon the applicant is suspended.
- (ii) During the pendency of the Revision, the applicant be released

on bail on his furnishing PR bond in the sum of Rs.10,000/- with one or two local sureties in the like amount.

(iii) The procedure for the bail be completed before the Trial Court i.e. Judicial Magistrate First Class, Nashik.

(iv) Before his actual release, the applicant shall deposit balance fine amount of Rs.87,000/- in the Registry of Appellate Court. The payment of balance fine amount is condition precedent for the actual release of applicant from jail.

6] Application is allowed in the aforesaid terms.

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

(A.S.GADKARI, J.)