

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 248 OF 2021

ALONG WITH

INTERIM APPLICATION NO. 321 OF 2021

IN

CRIMINAL REVISION APPLICATION NO. 18 OF 2021

Rajendra Madhukar Kulthe

... Applicant

V/s.

Sham Baburao Hire & Anr.

... Respondents

Mr.Sachin Gite for Applicant.

Mr.S.S. Hulke, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 3rd February 2021.

PC. :

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

2. The applicant is convicted under Section 138 of The Negotiable Instruments Act, 1881 (for short, 'N.I. Act') and is sentenced to suffer simple imprisonment for 4 months and also to pay compensation of Rs.1,60,000/- to the complainant within 3 months from the date of passing of the said Order, failing which to further undergo simple imprisonment of 3 months, by the learned Judicial Magistrate First Class, (Court No.3), Nashik Road, District Nashik in Summary Criminal Case No.1049 of 2011 by its Judgment and

Order dated 28th June 2016.

Criminal Appeal No. 143 of 2016 preferred by the applicant has been dismissed by the learned Sessions Judge, Nashik by its Judgment and Order dated 21st January 2021.

3. Learned counsel for the applicant submitted that, during the pendency of the appeal, the applicant has deposited a sum of Rs.40,000/- in the Registry of the Appellate Court. He submitted that, the appellant was on bail during the pendency of the trial and did not breach any conditions.

4. The sentence imposed upon the applicant is a short term sentence. The possibility of hearing the present Revision on its own merits in near future is remote.

5. In view thereof, this Court is of the view that, the substantive sentence imposed upon the applicant can be suspended by further directing the appellant to deposit an additional amount of Rs.60,000/- and the applicant can be released on bail on certain conditions.

6. Hence, the following Order :-

- (i) During the pendency of the present Revision, the substantive sentence imposed upon the applicant is suspended.
- (ii) Applicant be released on bail in Summary Criminal Case No.1049 of 2011 on his furnishing cash bail of Rs.20,000/-.

The procedure for furnishing bail be complied with before the Appellate Court.

- (iii) The Jail Authorities are directed to release the applicant immediately after production of original receipt of the bail amount issued by the Appellant Court/Sessions Court at Nashik.
- (iv) As noted earlier, the applicant shall deposit the said additional compensation of Rs.60,000/- in the Registry of the Appellate Court within a period of three weeks from the date of his actual release from jail.

If the applicant fails to deposit the said additional compensation within stipulated period, the present Order suspending substantive sentence and releasing the applicant on bail shall stand automatically cancelled without further reference to this Court.

7. Applications are allowed in the aforesaid terms.

[A.S. GADKARI, J.]

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