

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

WRIT PETITION NO. 2401 OF 2021

Bashir Yasin Shaikh

....Petitioner

V/s.

State of Maharashtra
and Ors.

....Respondents

* * * *

Mr. Prashant Pandey a/w. Mr. Aiqan Memon i/by WE
LEGAL LLP Advocate for the petitioner.

Mr. A.R. Patil, APP for State.

Coram : Sandeep K. Shinde, J.

Thursday, 23rd September, 2021.

P.C. :

1. This petition under Article 227 of the Constitution of India, challenges the order dated 6th March, 2021 in Criminal Appeal No.265/2018 passed by the learned Additional Sessions Judge, Dindoshi, Borivali.

2. The petitioner was convicted under Section 138 of the Negotiable Instruments Act in Criminal Case No.1230/SS/2014. Feeling aggrieved by the order of conviction, the petitioner preferred Criminal Appeal No.265/2018. The Appellate Court, vide order dated 13th August, 2018 suspended the substantive sentence and continued bail order, then granted by the trial Court till the next date and issued notice to the respondent (complainant).

3. Upon causing appearance, respondent no.2 moved an application, Exhibit-02, seeking directions to the petitioner-accused to deposit 25% of the cheque amount, whereupon the following order was passed on 6th March, 2021;

“1. The application (Exh.02) is hereby allowed.

2. The judgment and order passed by the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai in C.C. No.1230/SS/2014 dated 20.07.2018 is hereby

suspended till the decision of the appeal subject to deposit 20% fine amount i.e. Rs.8,60,000/- in the Court within a period of two months from the date of the order.

3. The application (Exh.2) stands disposed of accordingly.”

4. It appears from the operative part of the order that when the sentence was suspended on 13th August, 2018 the bail furnished before the trial Court was continued for a while. It was interim arrangement. However, after the complainant, caused his appearance, the learned Sessions Judge thought it fit and rightly directed appellant-accused to execute fresh bond. As such, the learned Sessions Court directed appellant to deposit 20% of fine amount i.e. Rs.8,60,000/- within a period of two months. It is against this order, the appellant has approached this Court in its supervisory jurisdiction. In consideration of the facts of the case, in my view, the learned Appellate Court has not committed

any error in exercise of its jurisdiction and therefore no interference is called for. In the result, order dated 6th March, 2021 is upheld. Petition is dismissed. However, time to deposit 20% of fine amount, is extended by five weeks from today. Petition is disposed off.

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(SANDEEP K. SHINDE, J.)