

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

***INTERIM APPLICATION NO.1769 OF 2021
(For Extension of Time)***

IN

INTERIM APPLICATION NO. 529 OF 2021

IN

CRIMINAL REVISION APPLICATION NO. 203 OF 2020

Suresh Chunilal Pariyar

...Applicant

Versus

Ashok Kumar Chatarsen & Anr.

...Respondents

Mr. Pritesh Kantikumar Bohade for the Applicant

Mr. Sooraj S. Hulke, A.P.P for the Respondent–State

***CORAM : REVATI MOHITE DERE, J.
(THROUGH VIDEO-CONFERENCING)
THURSDAY, 15th JULY 2021***

P.C. :

1 Heard learned counsel for the applicant and the learned A.P.P
for the State.

2 The applicant has filed the aforesaid application seeking
extension of time to deposit fine amount in the trial Court as directed by
this Court vide order dated 20th April 2021 and for continuation of the

suspension of the applicant's in-default sentence. Vide order dated 28th April 2021, this Court (Coram : A. S. Gadkari, J.) passed the following order in Interim Application Nos. 529/2021 and 1330/2021 filed by the applicant in the aforesaid revision application:

“1. These are the Applications for suspension of sentence and releasing the Applicant on bail.

2. Heard Mr. Bohade, learned Advocate for the Applicant and Mr. Hulke, learned APP for the Respondent No.2 – State.

3. The Applicant is convicted under Section 138 of the Negotiable Instruments Act, 1881 and is directed to pay fine of Rs.4,00,000/-, in default payment of fine, to undergo rigorous imprisonment of one year, by the learned Judicial Magistrate, First Class, Court No.11, Nashik in S.C.C. No.1165 of 2014, by its Judgment and Order dated 4th September 2017.

The Criminal Appeal No.175 of 2017, preferred by the Applicant has been partly allowed by the learned Sessions Judge, Nashik by its Judgment and Order dated 17th June 2020. The Appellate Court, extended the period to pay compensation from one month to six months by its impugned Judgment and Order. The Applicant has been directed to undergo in default sentence, if he fails to pay fine amount of Rs.4,00,000/- within a period of six months from the date of passing of the Order by the Appellate Court.

4. Learned counsel for the Applicant submitted that, the Applicant was on bail during the trial so also in Appeal. Applicant has deposited sum of Rs.80,000/- in the Registry of the Trial Court during the pendency of the Appeal.

5. In view thereof, the Applicant is directed to deposit balance amount of fine of Rs.3,20,000/- in the Registry of the Trial Court on or before 8th June 2021, without seeking further extension in that behalf.

6. *In view thereof, in default sentence imposed upon the Applicant can be suspended.*

Hence the following Order:-

- a) *During the pendency of the present Revision Application, the indefault sentence imposed upon the Applicant is suspended.*
- b) *If the Applicant fails to deposit the aforesaid amount of Rs.3,20,000/- within the stipulated period, the Applicant will have to surrender before the Trial Court to undergo indefault sentence.*

7. *The Applications are allowed in the aforesaid terms."*

3 Vide para 6 clause (b), it is stated that if an amount of Rs. 3,20,000/- was not deposited within the stipulated period, the applicant would have to surrender before the trial Court to undergo in-default sentence.

4 Learned counsel for the applicant submits that the said period came to an end on 8th June 2021. He states that as the applicant could not deposit the said amount within the stipulated period, the applicant filed the aforesaid application on 11th June 2021. He submits that the applicant was taken into custody on 8th July 2021. Learned counsel for the applicant, on the instructions of the applicant, makes a statement that the applicant will

deposit the fine amount of Rs. 3,20,000/- in the trial Court within two weeks of his release. Statement accepted. He submits that the applicant will not seek any further time.

5 Only by way of indulgence, time is extended to deposit the in-default fine amount of Rs. 3,20,000/- in the trial Court. The said amount to be deposited by the applicant within two weeks of his release.

6 In the meantime, the applicant's in-default sentence imposed on the applicant is suspended for a period of three weeks from today.

7 Applicant be released forthwith, in view of suspension of his sentence, if not required in any other case.

8 It is made clear that if the amount is not deposited within two weeks of the applicant's release, the applicant will have to surrender before the trial Court, forthwith, to undergo in-default sentence.

9 Interim Application is disposed of accordingly.

10 Matter be listed on 5th August 2021, under the caption `for compliance`.

11 Registry to forthwith communicate this order to the Superintendent, Nashik Central Jail, by email/fax.

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

REVATI MOHITE DERE, J.