

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

CRIMINAL WRIT PETITION NO.2710 OF 2021

Pratik Developers
Through its proprietor
Pritam Babanrao Dherange ...Petitioner
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Hitesh P. Shah, for the Petitioner.

Mr. Pritam Babanrao Dherange, Petitioner in-person.

Mr. A. R. Patil, A.P.P for the Respondent No.1– State.

Mr. Murlidhar B. Kale, for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.

DATE : 10th AUGUST, 2021

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner has impugned the order dated 10th May 2021, passed by the learned Sessions Judge, Rajgurunagar at Rajgurunagar, below Exhibit – 6 in Criminal Appeal No.05 of 2021, by which the petitioner was directed to deposit 20% of the fine amount i.e. Rs.34,00,000/- within 60 days from the date of the order i.e. from 10th May 2021.

3. Learned Counsel for the petitioner submits that the petitioner has a good case on merits and as such the impugned order directing the petitioner to deposit 20% of Rs.1,70,00,000/-, be quashed and set aside.

4. As the Court was not inclined to interfere in the order dated 10th May 2021, learned counsel for the petitioner sought time to take instructions within how much time the amount as directed by the Sessions Court would be deposited by the petitioner. Accordingly, learned counsel for the petitioner has tendered an undertaking/affidavit of the petitioner duly notarized. The said undertaking/affidavit is taken on record. The petitioner is present in Court.

5. In the undertaking/affidavit, the petitioner has stated that he is making an endeavour to sell his immovable property and that he will deposit the said money by demand draft. In the undertaking/affidavit the petitioner has also undertaken to deposit Rs.34,00,000/- within 60 days from today.

6. In view of the undertaking/affidavit filed by the petitioner, the aforesaid order dated 10th May 2021 requires no interference. It is not in dispute that the petitioner was convicted by the trial Court for an offence

under Section punishable under 138 of Negotiable Instruments Act and was directed to deposit compensation amount of Rs.1,70,00,000/-. Being aggrieved by the said Judgment and Order of conviction and sentence, the petitioner filed an Appeal in the Sessions Court being Criminal Appeal No.5 of 2021 along with an application seeking suspension of his sentence. The relevant part of said order dated 10th May 2021 reads thus:-

“

So, as per Sec. 148 of N.I. Act, appellant is directed to deposit 20% of fine amount i.e. 34,00,000/0 (20% of 1,70,00,000/-) within 60 days from today. If the said amount of Rs.34,00,000/- is deposited in this Court then only the impugned judgment is suspended by this order till decision of appeal & not otherwise. Appeal is admitted.”

7. As noted above, the impugned order warrants no interference. The undertaking/affidavit filed by the petitioner dated 10th August 2021 to be complied with by the petitioner. The petitioner to deposit the said amount of Rs.34,00,000/- within 60 days from today in the Registry of the Sessions Court. Time to deposit is accordingly extended by 60 days from today.

8. It is made clear that this Court has not gone into the merits of the case and as such all contentions of all parties are kept open before the appellate Court, where the petitioner's appeal is pending.

9. Petition is accordingly disposed of on the aforesaid terms.

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

REVATI MOHITE DERE, J.