

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****I.A. NO. 1719 OF 2019****IN****CRIMINAL REVISION APPLICATION NO.611 OF 2019****WITH****I.A.NO. 1717 OF 2019****IN****CRIMINAL REVISION APPLICATION NO.611 OF 2019**

Nadim Ahmed Shaikh & Anr.

....Applicants.

Vs.

The State Of Maharashtra & Ors.

....Respondents.

Mr. Anand i/by Rahul Karnik for the Applicants.

Mr. A.R. Patil, APP for the Respondent No.1-State.

CORAM : A. S. GADKARI, J.**DATE : 25th FEBRUARY, 2021.****P.C.:-**

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

2 Heard Mr. Anand, learned Advocate for the Applicant and Mr. Patil, learned APP for the State.

3 The Applicant No.1 is the proprietor of Applicant No.2-Ana Metal and Fabrication Works and has been convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short, '*the NI Act*') and is sentenced to suffer simple imprisonment for six months and to pay a fine

amount of Rs.2,75,000/-, in default of payment of fine to further suffer simple imprisonment for six months, by the learned Metropolitan Magistrate, 70th Court, Mazgaon, Mumbai in C.C. No.7001131/SS/2016 by its Judgment and Order dated 5th December, 2017.

The Criminal Appeal No.10 of 2018 preferred by the Applicants has been dismissed by the learned Additional Sessions Judge, Greater Mumbai by its Judgment and Order dated 2nd November, 2019.

4 Learned counsel appearing for the Applicants submitted that, during the pendency of the Appeal, the Applicant No.1 has deposited a sum of Rs.70,000/- in the Registry of the Sessions Court, Mumbai. He submitted that, during the penency of trial so also the Appeal, the Applicant No.1 was on bail and there is no report of breach of any of the conditions imposed upon him.

The sentence imposed upon the Applicant No.1 is a short term sentence and the possibility of hearing of the present Revision on its own merits in near future is remote. In view thereof, the sentence imposed upon the Applicant No.1 can be suspended and the Applicant No.1 can be released on bail on the following terms and conditions.

Hence the following order-

- a) During the pendency of the present Revision, the sentence imposed upon the Applicant No.1 is suspended.

- b) Applicant No.1 be released on bail on his furnishing PR bond of Rs.10,000/- with one or two local sureties in the like amount.
- c) Applicant No.1 shall deposit an additional sum of Rs.1 lakh, out of total amount of compensation, in the Registry of the Sessions Court, Mumbai within a period of two weeks from today.

It is made clear that, the deposit of additional sum of Rs.1 lakh is a condition precedent for suspension of sentence and releasing the Applicant No.1 on bail.

If, the Applicant No.1 fails to deposit the sum of Rs.1 lakh within a period of two weeks from today in the Registry of the Sessions Court, Mumbai, the Order of suspension of sentence and releasing the Applicant No.1 on bail, shall stands automatically revoked without further reference to this Court.

- d) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)

Sanjiv S.
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