

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 506/2021

Brijeshkumar S/o Lalatprasad Tiwari,
aged about 54 years, Occ. Labourer,
R/o. Ashok Nagar, Akola, Taluka &
Dist. Akola

.... APPELLANT
(Original Surety)

// VERSUS //

State of Maharashtra,
through Police Station City
Kotwali, Akola,

.... RESPONDENT

Shri Bhavin Suchank, advocate for appellant.
Shri S. M. Ghodeswar, APP for respondent/State.

CORAM : VINAY JOSHI, J.
DATED : 04.12.2021

JUDGMENT

Heard.

2. **Admit.** By consent of the learned counsel present for the parties, appeal is taken up for final disposal.

3. This is an appeal in terms of Section 449 of the Code of Criminal Procedure challenging the order dated 02.09.2021 passed by the Sessions Judge in Sessions Trial No. 133/2005 directing the appellant/surety to pay the forfeited amount in three installments of Rs. 5000/- each. It reveals that the appellant stood as surety for one of the accused involved in the offence punishable under Sections 395 of the Indian Penal Code. Since the accused went absconding, the Sessions Judge has issued notice to the surety with a hope that surety would assist in securing the presence of accused who is resident of other State. Record indicates that the surety has endeavoured to trace out accused but could not. In turn, the Sessions Judge has forfeited the bond amount to Rs. 15,000/- with a direction to the surety to deposit the same in the installments.

4. The appellant/surety has filed application for reduction of surety amount and for grant of installments on the ground of financial constrains. The application was opposed by the State contending that the accused was absconding from the year 2005 and considering the said aspect, application be rejected. Learned Sessions Judge partially allowed the application and granted installments as aforesaid mentioned.

5. Perusal of application indicates that the applicant tried to search the accused at his native place, but he was not able to trace. The applicant stated that he is doing labour work and earning Rs. 4,000/- per month only. Though the applicant has prayed monthly installment of Rs. 1000/-, however, there is no purpose in waiting and keeping track on the appellant for months together. Having regard to the financial position of appellant and efforts made by him, the appeal stands disposed of in the following terms:-

- (I) Appeal stands partly allowed.
- (II) Bond amount is remitted to the extend of Rs. 10,000/-.
- (III) The appellant is directed to deposit bond amount of Rs. 10,000/- within one month, failing which, the amount shall be recovered as if the fine imposed under the Code.
- (IV) Appeal is disposed in above terms.

JUDGE