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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

977 CRIMINAL APPLICATION NO. 1916 OF 2022
IN REVN/179/2022

PRASHANT CHHAGANRAO GADEKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Balraj Prakash Pande
APP for Respondent No. 1 : Ms. V. S. Choudahri
...

CORAM : S. G. MEHARE, J.

DATE : 17th June, 2022

P.C.

1. Heard the learned Counsel for the applicant and the learned A.P.P. for respondent no.1.
2. The applicant has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, for dishonour of the cheque of Rs.7,00,000/-. His defence was discarded by the learned trial Court and held him guilty. He was convicted and sentenced to suffer RI for one year and was directed to pay compensation of Rs.7,00,000/- to the complainant. He had impugned the said order before the learned Sessions Judge. The learned Sessions Judge altered the sentence imposed by the learned

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trial Court and sentenced the applicant to suffer RI for nine months and maintained the amount of compensation.

3. The learned Counsel for the applicant would submit that the applicant had a defence that the miscreants had snatched the blank cheques and handed over the same to various persons to extract money and one of the cheques was given to the complainant. The applicant had no liability to pay. If the evidence is appreciated from the angle of the defence, the applicant has good chances of success in the revision. Hence, the sentence may be suspended.

4. Section 148 of the Negotiable Instruments Act imposes a condition that in appeal by drawer against conviction under Section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court.

5. The learned Counsel for the applicant submits that in Appellate Court an amount of Rs.1,00,000/- has already been deposited. However, calculating the amount of compensation of Rs.7,00,000/-, twenty percent comes to Rs.1,40,000/-. The learned Counsel for the

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applicant agrees to deposit the remaining amount of Rs.40,000/- in this Court within a period of two weeks from today. The applicant is ready to abide by the provisions of law and there are grounds to contest the revision. Hence, the following order -

- i) The application is allowed.
- ii) The sentence imposed by the learned Additional Sessions Judge, Aurangabad, in Criminal Appeal No. 37 of 2019 against the applicant is suspended till the disposal of this revision, on the condition that the applicant shall deposit the remaining amount of Rs.40,000/- within two weeks from today in this Court.
- iii) If the applicant fails to comply with aforesaid condition, this order shall stand recalled automatically.
- iv) The applicant be released on bail on executing PB and SB of Rs.20,000/- with one solvent surety of like amount.
- v) Bail be furnished before the learned first appellate Court.
- vi) *Hamdust* allowed.

(S. G. MEHARE, J.)

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