

(1)

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

**951 CRIMINAL REVISION APPLICATION NO.205 OF 2022
WITH APPLN/2234/2022 IN REVN/205/2022**

**PRAKASH KISAN DHARKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr Y.H. Lagad, Advocate holding for Mr. R.R. Karpe, Advocate for applicant;
Mr A.A. Jagatkar, A.P.P. for respondent no.1

CORAM : S. G. MEHARE, J.

DATE : 12th July, 2022

PC.

1. Heard the learned Counsel for the applicant.
2. The applicant has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and imposed a compensation of Rs.3,25,000/-. The judgment of conviction passed by the Trial Court has been confirmed by the first appellate court. Learned Counsel for the applicant would submit that the payment made to the respondent complainant, time to time, has not been deducted by the complainant and it has also not been considered by both the Courts below. The applicant has a good case on merit; therefore, sentence may be suspended. He has fairly conceded that

(2)

not a single pie has been deposited by him in the appellate court after awarding the compensation of Rs.3,25,000/-.

3. It appears that Section 148 of the Negotiable Instruments Act has not been considered by the appellate court. It has been provided therein that the appellate court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the total compensation amount. Now the applicant has preferred the revision and seeking the suspension of the sentence. Therefore, he should be directed to deposit minimum 20% of the total compensation amount. Besides the above, the applicant has a good case on merit. Hence, the following order:-

- i) The substantive sentence imposed against the applicant shall stand suspended.
- ii) The applicant be released on bail on executing P.B. and S.B. of Rs.15,000/- with one solvent surety of the like amount.
- iii) The applicant shall deposit 20% of Rs.3,25,000/-, within four weeks from today, in this Court.
- iv) Issue notice to the respondents, returnable on 2.8.2022.
- v) Learned A.P.P. waives service of notice on behalf of respondent no.1.

(S. G. MEHARE, J.)

crirev205.22, etc.

(3)

amj