

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

**CRIMINAL APPLICATION NO.3480 OF 2022
IN REVN/307/2022**

**VISHNU MEHARAWAN CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicant : Mr. More P. P.
APP for Respondent/State : Mr. V.M. Kagne

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CORAM : S.G. MEHARE, J.

DATED : 13th OCTOBER, 2022

PER COURT:-

1. Leave granted to the learned counsel for the applicant to amend the application for seeking stay to the execution to the recovery of the compensation amount. Amendment be carried out forthwith.

2. The applicant has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced to suffer S.I. for one month and directed to pay fine of Rs.55,000/- and out of Rs.55,000/-, the compensation amount of Rs.53,000/- was directed to be paid to the complainant. Under the conviction warrant of the Additional Sessions Judge applicant is behind the bars.

3. Learned counsel for the applicant submits that at no point of time, the minimum amount of 20% of the fine amount of

compensation as provided under Section 148(1) of the Negotiable Instruments Act, has been deposited. He is a poor agriculturist. The applicant has a good case on merit.

4. The applicant has a defense that the cheque in dispute was delivered to the complainant as security. However, he has misused it. He also challenged the legality and validity of the statutory notice.

5. Considering the defense raised by the applicant, it appears that he has a arguable case. Hence, the discretion under Section 389 of the Criminal Procedure Code may be exercised by this Court. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) The order sentencing the applicant to suffer S.I. for one month is suspended till the disposal of the revision petition.
- (iii) The applicant be released on bail on furnishing P.B. and S.B. of Rs.15,000/- (Fifteen Thousand) with one solvent surety of the like amount.
- (iv) Bail before the learned Appellate Court.
- (v) After furnishing the bail, the Appellate Court shall issue the release warrant. The order directing to pay the

(3)

compensation of Rs.53,000/- is stayed, subject to depositing 20% of the said amount with this Court on or before 20.10.2022.

(S.G. MEHARE, J.)

Mujaheed//