

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL REVISION APPLICATION NO. 189 OF 2022
WITH
INTERIM APPLICATION (ST.) NO. 1487 OF 2022**

Madhav Gajkumar Upadhye ...Applicant
Versus
Neminath Dada Sidnale & Anr. ...Respondents

**WITH
INTERIM APPLICATION NO. 2974 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 189 OF 2022**

Neminath Dada Sidnale ...Applicant
Versus
Madhav Gajkumar Upadhye ...Applicant

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Mr. Paras Yadav, Advocate for the Applicant.

Mr. Jayant Bardeskar, Advocate for Applicant in Interim Application No. 2974 of 2022.

Mr. S. R. Agarkar, APP for the Respondent – State.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 12th SEPTEMBER, 2022.**

PER COURT:

1. The revision applicant is convicted for offence punishable under Section 138 of Negotiable Instruments Act vide judgment and order dated 4th July, 2018 passed by learned J.M.F.C., 11th Court at Kolhapur in Summary Criminal Case No.3121 of 2015 for offence punishable under Section 138 of Negotiable Instruments

Act and to deposit the amount of Rs.3,25,000/- towards compensation and in default to suffer sentence of two months simple imprisonment.

2. This order was challenged by the applicant before the Sessions Court by preferring appeal. The said appeal was dismissed for want of prosecution vide order dated 23rd March, 2022 on the ground that the appellant and his Advocate were absent. Sentence is not suspended. The appeal is dismissed for default. Directions were issued to the trial Court to issue conviction warrant against the accused. Interim Application No.1487 of 2022 has been preferred for suspensions of sentence.

3. Vide order dated 9th May, 2022, this Court suspended the sentence imposed by the trial Court subject to deposit of Rs.75,000/- before the trial Court within a period of four weeks and the applicant was directed to be released on bail on furnishing P.R. bond in the sum of Rs.15,000/- with one or more sureties in the like amount.

4. Learned Advocate for the applicant submits that, pursuant to order dated 9th May, 2022 the applicant has deposited the amount of Rs.75,000/- before the District Court.

5. The respondent/complainant has preferred Interim Application No. 2974 of 2022 for withdrawal of the amount of Rs.75,000/- deposited by the revision applicant pursuant to order passed by this Court.
6. Learned Advocate for the revision applicant has opposed the prayer for withdrawal of amount as prayed by the complainant.
7. Considering the aforesaid circumstances, the revision application as well as Interim Applications can be disposed off.

ORDER

- i. Order dated 23rd March, 2022 passed by the Sessions Court dismissing Criminal Appeal No.132 of 2018 preferred by the applicant is set aside.
- ii. The said appeal is restored to file.
- iii. The order dated 9th May, 2022 passed by this Court in interim application No.1487 of 2022 suspending the sentence of imprisonment imposed by the trial Court shall continue for a period of four weeks.
- iv. The applicant is permitted to prefer application for suspension of sentence before the Sessions Court, where the appeal is pending and pray for extension of relief of suspension of sentence granted by this Court during pendency of appeal. The Sessions Court shall take into consideration the fact that the revision applicant had deposited the amount of Rs.75,000/- within stipulated time in accordance with order dated 9th May, 2022.

- v.** The applicant/complainant in Interim Application No.2974 of 2022 preferred by the original complainant for withdrawal of the amount is allowed.
- vi.** The complainant is permitted to withdraw the amount of Rs.75,000/- deposited by the revision applicant before the District Court.
- vii.** The withdrawal shall be subject to the outcome of the appeal preferred by the revision applicant before the Sessions Court.
- viii.** The revision application as well as both interim applications are disposed off accordingly.

(PRAKASH D. NAIK, J.)