

VRJ

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

**WRIT PETITION NO. 3868 OF 2022
WITH
INTERIM APPLICATION NO.3662 OF 2022**

Sanjay S/o. Vithal Chavan ... Petitioner
V/s.
Mahendra Dattaram Patil & Anr. ... Respondents

Mr. A.M. Saraogi for the petitioner/applicant.

Mr. S.S. Pednekar, APP for the State.

Mr. Deepak Chitnis a/w Mr. Sanjay T. Raikar and Mr.
Mangesh Parte i/by Deepak Chitnis Chiparikar & Co.
for respondents 1 & 2.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 9, 2022

PC.:

1. The writ petition arises out of rejection of application under section 389 of Code of Criminal Procedure before the Appellate Court for non-payment of 20% compensation amount as directed by the Appellate Court. The learned Magistrate by judgment and order dated 16th April, 2019 directed payment of Rs.10,00,000/- along with simple interest at the rate of 9% from the date of complaint till its realization.

2. The learned Sessions Judge in the impugned order rejected the application for suspension of sentence on the ground that the

accused in spite of grant of opportunity to deposit the amount as per the direction of Sessions Court failed to deposit 20% of the amount.

3. The accused therefore filed writ petition challenging the order of rejection of relief of suspension of sentence.

4. The accused was thereafter arrested for non-payment of the amount of compensation as directed by the Sessions Court.

5. During pendency of present writ petition, this court by order dated 28th October, 2022 recorded a statement on behalf the applicant that the applicant is ready and willing to pay 40% of the amount to respondent No.1 and 2.

6. Today, the learned advocate for the applicant handed over pay order bearing No.119284 drawn on Abhyudaya Co-Operative Bank Ltd. to the complainant who is present in the Court. The advocate for the complainant identifies the complainant and hands over the pay order to the complainant. In that view of the matter, I pass following order:

(a) The substantive sentence of imprisonment imposed on the accused (Sanjay Vithal Chavan) by judgment and order dated 16 April 2019 passed by Metropolitan Magistrate, 33rd Court, Ballard Pier Mumbai, in C.C. No.5187/SS of 2018 stands suspended during the pendency of Criminal Appeal No. 399 of 2019.

(b) The petitioner shall be released on bail on furnishing PR Bond of Rs.10,000/- and one or two local sureties in the

like amount.

(c) Till the petitioner is able to arrange for PR Bond and sureties, the petitioner shall be released on furnishing cash surety of Rs.10,000/-.

7. All concerned to act on an ordinary copy of this order duly authenticated by the Court Sheristedar of this Court.

8. In view of the aforesaid direction, the interim application and writ petition stand disposed of. No costs.

(AMIT BORKAR, J.)