

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

**CRIMINAL APPLICATION NO. 1278 OF 2023
IN
CRIMINAL REVISION APPLICATION NO. 103 OF 2023**

**NANDU HUKUMCHAND PAWAR
VERSUS
RAVER PEOPLES CO-OPRATIVE SOCIETY LIMITED, RAVAR
THROUGH ITS MANAGER KALIDAS DALDAS WANI**

...
Advocate for Applicants : Mr. Bhosale Mahesh Kalidas
Advocate for the respondent : Mr. A.J. Patil Mr. A. B. Parte

...
CORAM : S. G. MEHARE, J.

DATE : 14.06.2023

PER COURT :

1. The applicant is seeking suspension of sentence imposed by the learned Judicial Magistrate First Class Court no.2, Raver sentencing him to suffer rigorous imprisonment for one month and pay a fine of Rs. 1,10,000/- and in default to suffer R. I. for one month for the offence punishable under Sections 138 of the Negotiable Instruments Act 1861 in S.S.C. No. 497 of 2012 dated 17.09.2013. The learned Additional Sessions Judge, Bhusawal by judgment and order in Criminal Appeal No. 193 of 2014, dated 09.02.2023, has confirmed the sentence.

2. The learned counsel for the applicant made a statement that today the applicant has been arrested under conviction warrant and taken into custody to undergo sentence. He would argue that the applicant has a good case on merit. He would further argue that there was delay in filing the complaint. The other material grounds have not been considered by the Courts. Hence the sentence may be suspended.

3. The learned counsel for the respondent has vehemently opposed the application contending that there was no probable defence. Hence, both courts have correctly convicted the applicant.

4. Perused the papers, impugned judgments and orders. There appears ground available to the applicant to argue in revision. There are no antecedents to the discredit of the applicant. He is a poor man. Hence, the sentence is liable to be suspended. Hence, the following order.

ORDER

- (i) The application is allowed.
- (ii) The implementation and execution of the sentence imposed by the learned Judicial Magistrate First Class, Court No. 2 Raver District Jalgaon in S.C.C. Case No. 497/2012 dated 17.09.2013 convicting the accused for the offence punishable under Section 138 of

the Negotiable Instruments Act and confirmed by the learned Additional Sessions Judge, Bhusawal in Criminal Appeal No. 193 of 2014, is suspended till conclusion of the revision.

(iii) The applicant shall be released on bail on executing PB. and S.B. of Rs.50,000/- with one solvent surety of the like amount.

(iv) Bail before the learned Additional Sessions Judge, Bhusawal.

(v) List the matter in due course.

(S. G. MEHARE)
JUDGE

ysk