

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

**CRIMINAL REVISION APPLICATION NO.158 OF 2023
WITH
CRIMINAL APPLICATION NO. 1886 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.158 OF 2023**

**ANTESHWAR NAGNATHAPPA KASTURE
VERSUS
THE STATE OF MAHARASHTRA**

...
Mr. Ajinkya A. Reddy, Advocate for the applicant
Mr. V.M. Kagne, APP for the Respondent – State
...

**CORAM : S.G. CHAPALGAONKAR, J.
(VACATION COURT)**

DATE : 17th MAY, 2023

PER COURT :

. The present revision application is filed challenging the judgment and order dated 02nd May, 2023 passed by the learned Additional Sessions Judge, Udgir in Criminal Appeal No.15 of 2019 thereby confirming the judgment and order dated 05th August, 2019 passed by learned J.M.F.C. at Udgir in S.C.C. No.259 of 2009 convicting the applicant for offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentencing him to undergo simple imprisonment for six months with a further direction to the applicant to pay the compensation of Rs. Two Lakh to the complainant and in default of payment of compensation to suffer

simple imprisonment for six months.

2. Mr. Reddy, learned advocate appearing for the applicant would submit that applicant has already deposited Rs. Sixty Thousand out of the compensation amount of Rs. Two Lakh. He would submit that applicant would further deposit Rs. Forty Thousand before the Court of Judicial Magistrate First Class at Udgir within a period of two weeks.

3. Mr. Reddy would place his reliance upon the order dated 03rd May, 2023 passed by this Court (Coram: **S.G. Mehare, J.**) in Criminal Revision Application No.301 of 2022 with connected matters to contend that the issue regarding the requirement to surrender by accused on confirmation conviction and sentence by Appellate Court before entertaining revision under Section 397 of the Code of Criminal procedure (in short, 'Cr.P.C.') has been referred to larger Bench and pending such reference, the sentence has been suspended without requiring applicant / accused to surrender.

4. In view of the aforesaid submissions, issue notice to the respondent returnable on 22nd June, 2023. Meanwhile, there shall be ad interim relief in terms of prayer clause 'C', which reads thus:

“(C) Pending hearing and final disposal of this revision application, the sentence imposed on the applicant pursuant to the order dated 05.08.2019 passed by the learned JMFC Udgir in Summary Case No. 259 of 2009 and confirmed by the Additional Sessions Judge, Udgir, in Criminal Appeal No. 15 of 2019 by order dated 02nd May, 2023 may kindly be suspended.”

5. The substantive sentence imposed on the applicant vide the judgment and order dated 05th August, 2019 passed by learned J.M.F.C. at Udgir in S.C.C. No.259 of 2009 is suspended pending the appeal. Meanwhile, the applicant be released on bail on his furnishing P.B. and S.B. of Rs.15,000/- with one solvent surety in the like amount, pending the appeal. The applicant shall attend the proceedings of appeal regularly. Bail before the learned trial Court.

6. The ad interim relief granted is subject to deposit of the amount of Rs. Fourty Thousand before Judicial Magistrate First Class, Udgir within a period of two weeks from the date of passing of this order.

(**S.G. CHAPALGAONKAR**)
VACATION JUDGE