

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

**CRIMINAL APPLICATION NO.3869 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.320 OF 2023**

1. Sushila W/o Digamber Pawar

2. Maroti Vithal Bhople

... Applicants

Versus

Nilkanthswar Hardware Jalkot

Proprietor Saroja Shankarrao Sopa & Another

... Respondents

...

Mr. B. S. Bhale, Advocate for the Applicants

Mr. S. P. Deshmukh, APP for the Respondent No.2/State

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 20.10.2023

PER COURT :

1. Heard the learned Advocate appearing for the applicants and learned APP for respondent no.2-State.
2. The learned Advocate appearing for the applicants submits that the applicants were prosecuted under Section 138 of Negotiable Instrument Act, 1881 [for short 'N.I. Act'] in SCC No.617/2014 before Judicial Magistrate, First Class at Udgir. After having full-fledged trial, he has been convicted for the aforesaid offences and sentenced to undergo simple imprisonment for two years and pay

compensation of twice amount of cheque i.e. Rs.1,48,500/- to the informant. The Criminal Appeal No.03/2021 filed against the aforesaid conviction and sentence before the Sessions Court at Udgir came to be partly allowed with modification vide order dated 16/10/2023.

Learned Advocate appearing for the applicants would further submit that there are arguable grounds in revision application, which require consideration in detail. Hence, he urges to release the applicants on bail.

4. Learned APP strongly opposes the prayers.
5. Having considered the submissions advanced and after going through the reasoning adopted by the trial court as well as appellate court, it appears that, there are arguable grounds in revision application, which require consideration after perusal of the record. It is further observed that, the applicants were on bail during the trial, so also during pendency of the appeal. The applicants have surrendered immediately after confirmation of the conviction and sentence by the Sessions Court, Udgir. They have not misused the liberty.
6. In that view of the matter, there is no impediment in suspending of sentence and releasing the applicants on bail. Hence, following order :

ORDER

- (a) Criminal Application is allowed.

- (b) Pending hearing and final disposal of pending revision application no.320/2023, substantive sentence imposed by the learned Judicial Magistrate, First Class at Udgir, in SCC No.617/2014 and confirmed with modification by the learned Sessions Judge, Udgir, in Criminal Appeal No.03/2021, is hereby suspended.
- (c) Meanwhile, the applicants / accused be released on bail on executing P.B. and S.B. of Rs.25000/- each [Rs. Twenty Five Thousand Only].
- (d) The applicants shall deposit Rs.1,00,000/- within a period of four weeks from the date of release.
- (e) The release of the applicants shall be subject to compliance of the aforesaid conditions.
- (f) Bail be furnished before the Trial Court.
- (g) Criminal Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE