

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

**CRIMINAL APPLICATION NO.4243 OF 2022
IN REVN/86/2023 WITH REVN/86/2023**

**DILIP RAMDAS ADSULE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicant : Mr. Sushant B. Choudhari
APP for Respondent/State : Mr. K.S. Patil
Advocate for Respondent No.2 : Mr. Abhijit More

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CORAM : S.G. MEHARE, J.

DATED : AUGUST 10, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned counsel for respondent no.2, who was the complainant in the complaint under Section 138 of Negotiable Instruments Act.
2. Learned counsel for the applicant would submit that the applicant has a good case on merit. The defence needs to be tested on the anvil of law. There was no transaction as such. He is ready to deposit Rs.25,000/- again to show his bonafide. Hence, the sentence may be suspended.
3. Learned counsel for the contesting respondent no.2 would submit that there were two consecutive judgments against the applicant. The case was registered in the year 2012. Since then, the complainant is running pillar to pole for getting his money back, but the applicant did not respect the two judgments. A short term

conviction of S.I. for 15 days was imposed upon him. There are no grounds to argue before the Court. Hence, the sentence may not be suspended.

4. It is a case under Section 138 of Negotiable Instruments Act wherein legal aspects are to be tested at the anvil of the provisions of law. The legal issues have been raised in this case that may be considered. A short term imprisonment of S.I. for 15 days has been imposed. The applicant has been arrested in the crime. He showed bonafide to deposit further Rs.25,000/- with the trial Court. It appears a fit case to suspend the sentence. Hence, the following order :

ORDER

- (i) The application is allowed.
- (ii) The execution, implementation, effect and operation of the order sentencing the applicant to suffer S.I. for 15 days passed by the learned Judicial Magistrate First Class, Osmanabad in S.C.C. No.671 of 2012 dated 04.01.2016 and confirmed by the learned Additional Sessions Judge, Osmanabad in Criminal Appeal No.09 of 2016 dated 29.07.2022 has been suspended till the conclusion of this revision application.
- (iii) The applicant shall be released on bail on executing P.B. and S.B. of Rs.50,000/- with one solvent surety of the like amount.
- (iv) Bail before the learned Additional Sessions Judge, Osmanabad.

(3)

(v) The applicant shall deposit Rs.25,000/- with the trial Court on 18.08.2023.

(vi) List the criminal revision application on 07.09.2023.

(S.G. MEHARE, J.)