

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

**CRIMINAL APPLICATION NO.4038 OF 2023
IN REVN/338/2023**

**RAJENDRA KAUTIKRAO WARADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Mr. S. S. Gangakhedkar, Advocate for the Applicant.
Mr. S. P. Deshmukh, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 03rd NOVEMBER, 2023.**

PER COURT:-

1. Mr. Gangakhedkar, learned Advocate appearing for the applicant would submit that the applicant was prosecuted in Summary Criminal Case No.543/2018 for the offence punishable under Section 138 of the Negotiable Instrument Act. On conclusion of the trial, learned Judicial Magistrate First Class-3, Jalna vide order dated 08.09.2022 pleased to convict the applicant and sentenced to suffer imprisonment for six months and directed to pay cheque amount of Rs.12,00,000/- as compensation as per Section 357(3) of the Criminal Procedure Code. The conviction and sentence imposed by the Trial Court was challenged in Appeal before the Additional Sessions Judge-3, Jalna. However, vide order dated 27.10.2023, the Appeal came to be dismissed. The applicant surrendered immediately and since then, he is behind the bar. Mr. Gangakhedkar would submit that the applicant has already deposited 20% of the cheque amount as per order of the Sessions Court while he was released on bail. The applicant is ready and willing to deposit additional 20% of the cheque amount to show his bonafide.

2. The learned APP submits that both the Courts below have recorded concurrent findings on the crucial aspects of the matter.

3. Having considered the submissions advanced and after going through the reasoning adopted by the Trial Court as well as Sessions Court there are arguable grounds, which require consideration in detail after calling for Records and Proceedings. The applicant was on bail during the trial, so also during the pendency of the appeal. He has not misused the liberty. Further he voluntarily gives an offer to deposit additional 20% of cheque amount. Hence, case is made out for suspension of sentence and release the applicants on bail. Hence, the following order:

ORDER

- (i) The Criminal Application is allowed.
- (ii) Pending hearing and final disposal of the Revision Application, the substantive sentence imposed by the Judicial Magistrate First Class-3, Jalna in Regular Criminal Case No.543/2018 dated 08.09.2022 and confirmed by the Additional Sessions Judge-3, Jalna in Criminal Appeal No.30/2022 dated 27.10.2023 is hereby suspended till further orders.
- (iii) Meanwhile, the applicant, Rajendra S/o Kautikrao Warade, be released on bail on furnishing P.B. and S.B. of Rs.25,000/- (Rs.Twenty Thousand only) each with one solvent surety of the like amount.
- (iv) The release of the applicant shall be subject to deposit of additional 20% of the cheque amount within a period of four weeks from the date of release. In case of default, order of suspension of sentence and release of the applicant on bail shall

be deemed to have canceled and he shall be liable to surrender before the Trial Court and suffer sentence in terms of order passed by the Sessions Court.

(v) Bail before the Trial Court.

(vi) The Criminal Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE