

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3496 OF 2022

Mr. Shiva Tarasingh Chitte (Through Jail) .. Petitioner  
Vs.  
The State of Maharashtra .. Respondent

- Mr. Ajit M. Savagave, appointed Advocate for the Petitioner.
- Mr. J.P. Yagnik, APP for State.

CORAM : SUNIL B. SHUKRE &  
M.M. SATHAYE, JJ.

DATE : 10<sup>th</sup> APRIL, 2023.

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

1. Heard. Rule. Rule is made returnable forthwith. With the consent of the parties, the petition is taken up for final disposal at the stage of admission itself.

2. It is seen that while forfeiting the cash surety of Rs.15,000/-, the competent authority has not considered if there were any mitigating factors such as the conduct of the petitioner and the worth of the explanation given by him. We are of the opinion that if the overall conduct of the petitioner is good, then the competent authority would be required to give some discount to the petitioner for his good conduct

and that instead of forfeiting the entire amount of Rs.15,000/- the competent authority can in its discretion decide to forfeit only part of the cash surety which is proportionate to the misconduct on the part of the petitioner. However, the issue has not been examined by the competent authority from this viewpoint, and therefore, this is a fit case for quashing and setting aside the impugned order and remanding the matter for a fresh decision.

3. The petition is allowed. The impugned order is hereby quashed and set aside. The matter is remanded back to the competent authority for its decision afresh, in accordance with law and in the light of the observations made hereinabove, to be taken within a period of six weeks from the date of receipt of writ of this Court.

4. Rule is made absolute in the aforesaid terms.

5. The Petition is disposed of. No costs.

6. All concerned to act on an authenticated copy of this order.

**[ M.M. SATHAYE, J ]**

**[ SUNIL B. SHUKRE, J. ]**