



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

48 CRIMINAL WRIT PETITION NO. 66 OF 2024

NARSINGH RAGHUNATH SHINDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for the Petitioner : Mr. S. R. Bagal h/f

Mr. Gadegaonkar Bharat N.

AGP for Respondent-State : Mr. S. B. Narwade.

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CORAM : S. G. MEHARE, J.

DATE : 01.07.2024

PER COURT :-

1. Heard the learned counsel for the petitioner and learned APP for the respondent-State, who is being a formal party.
2. The petitioner was convicted for the offence punishable under Section 138 of the N.I.Act. Against that order, he had preferred the appeal before the Sessions Court and sought suspension of sentence under Section 389 of the Cr.P.C. Learned Sessions Judge allowed the prayer to release him under Section 389(3) of the Cr.P.C. on the condition to deposit 50% of the compensation amount. The petitioner has impugned the said order.
3. Learned counsel for the petitioner submits that the transaction itself was not legal. Therefore, there was no legally enforceable debt. The cheque in dispute was furnished as

security. The applicant has no financial condition to deposit 50% of the amount of compensation.

4. The applicant is in service. That means he has a regular income source. Therefore, his contention that he has no good financial condition is unacceptable. The petitioner cannot claim as a matter of right that the condition to deposit 50% of the compensation amount should not be imposed. The Court has discretion to impose the condition to deposit 50% of the amount as provided under Section 143-A of the N.I.Act. The accused cannot claim the exemption as a matter of course unless there are circumstances that inspire the confidence of the Court that such concession may be granted.

5. Considering the facts of the case and the position the petitioner holds, the Court is not satisfied that it is a case to exercise the discretion dispensing with depositing 50% of the amount of compensation granted by Trial Court.

6. The impugned order of the learned Additional Sessions Judge, Kandhar is legal, proper and correct.

7. Hence, writ petition stands dismissed.

(S. G. MEHARE, J.)

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vmk/-