



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

22 CRIMINAL APPLICATION NO. 1599 OF 2024

IN REVN/106/2024

WITH

CRIMINAL REVISION APPLICATION NO. 106 OF 2024

AJAY RAMCHANDRA KAGDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Machave Sandeep Subhash.

APP for Respondents-State : Ms. D. S. Jape.

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CORAM : S. G. MEHARE, J.

DATE : 18.06.2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondents-State.

2. The applicant has been convicted for the offence punishable under Section 138 of the N. I. Act. His appeal against the judgment and order of conviction has also been dismissed. Against these two judgments, he preferred this criminal revision application. This Court by order dated 05.06.2024, issued notice to the respondent/complainant. The request of the applicant for suspension of sentence was also kept in abeyance till the applicant surrender. Learned counsel for the applicant submits that the applicant has surrendered

before the Judicial Magistrate First Class and has received the WhatsApp message that the learned Judicial Magistrate First Class took him in custody. As per the statement of the learned counsel for the applicant, as observed in the order dated 30.04.2024, the applicant is ready to deposit Rs.50,000/- with this Court as a condition for suspension of sentence.

3. Learned counsel for the applicant has a case that it was a false case arising out of the civil contract. However, both Courts erred in law are not appreciating the principles of legally enforceable debt. The applicant has been convicted to suffer S.I. for one month. Out of it, he has already undergone 25 days. Only five days remained to undergo the sentence imposed against him. He has submitted that the applicant has good case on merits. Therefore, substantial sentence may kindly be suspended.

4. Learned APP has a complaint that she did not receive the papers. However, considering the facts of the case, she would submit that the complainant should be heard before suspending the sentence.

5. Perused the impugned judgments and orders. The applicant wants to deposit Rs.50,000/- in the Court to show his

bonafide. The offence under Section 138 is a technical offence. The applicant has already undergone a substantial sentence. There were no complaints that applicant has misused the liberty granted to him during the pendency of the appeal. If the sentence is suspended till the next date, no harm would be caused to either side. Hence, the following order :

### **ORDER**

- (i) The execution and implementation of the sentence imposed upon the applicant by the learned Judicial Magistrate First Class, Court No.12, Aurangabad in SCC.No.9404 of 2018, dated 04.05.2022 and as per the order passed by the learned Additional Sessions Judge, Aurangabad in Criminal Appeal No.104 of 2022 till the next date on the condition to deposit Rs.50,000/- (Rupees Fifty Thousand only) within a week from today with this Court.
- (ii) Applicant be released on **temporary bail** on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount **till the next date**.
- (iii) List the matter on fixed date i.e. on 26.06.2024.

**(S. G. MEHARE, J.)**

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vmk/-