

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION (ST) NO. 10059 OF 2024 (Delay)
IN
CRIMINAL REVISION APPLICATION (ST) NO.10062 OF 2024
WITH
INTERIM APPLICATION (ST) NO.10065 OF 2024**

Mukesh Radheshyam Soni ...Applicant
vs.
State of Maharashtra ...Respondent

**WITH
INTERIM APPLICATION (ST) NO.10058 OF 2024 (Delay)
IN
CRIMINAL REVISION APPLICATION (ST) NO.10024 OF 2024
WITH
INTERIM APPLICATION (ST) 10067 OF 2024**

Mukesh Radheshyam Soni ...Applicant
vs.
State of Maharashtra and Ors. ...Respondents

**WITH
INTERIM APPLICATION (ST) NO.10037 OF 2024 (Delay)
IN
CRIMINAL REVISION APPLICATION (ST) NO.10029 OF 2024
WITH
INTERIM APPLICATION (ST) NO.10035 OF 2024**

Mukesh Radheshyam Soni ...Applicant
vs.
State of Maharashtra and Ors. ...Respondents

**WITH
INTERIM APPLICATION (ST) NO.9977 OF 2024 (Delay)**

IN
EC – NCBM01-04309-2024
WITH
INTERIM APPLICATION (ST) NO.10034 OF 2024

Mukesh Radheshyam Soni ...Applicant
vs.
State of Maharashtra and Ors. ...Respondents

WITH
INTERIM APPLICATION (ST) NO.10060 OF 2024 (Delay)
IN
CRIMINAL REVISION APPLICATION (ST) NO.10027 OF 2024
WITH
INTERIM APPLICATION (ST) NO.10064 OF 2024

Mukesh Radheshyam Soni ...Applicant
vs.
State of Maharashtra and Ors. ...Respondents

Ms. Rashmi Bhandarkar:	Advocate for Applicant.
Mr. H.J. Dedhia:	APP for State.

CORAM : S. M. MODAK, J.
DATE : 9th MAY 2024

P.C. :-

1. Heard learned Advocate for the Applicant in all these applications.
2. The Court of Judicial Magistrate, First Class, Dadra & Nagar

Haveli, Silvassa. as per separate judgments dated 5th April 2021 has convicted the Applicant for the offence punishable under Section 138 of the Negotiable Instruments Act. The sentence is as follows:-

Sessions Case No.	Interim Application No. (for condonation)	Interim Application No. (suspension)	Sentence
Criminal Appeal No.4/2021	IA(ST)/9977/2024	IA(ST)/10034/2024	3 months Rs.1,00,000/-
Criminal Appeal No.5/2021	IA(ST)/10037/2024	IA(ST)/10035/2024	3 months Rs.50,000/-
Criminal Appeal No.6/2021	IA(ST)/10058/2024	IA(ST)/10067/2024	3 months Rs.50,000/-
Criminal Appeal No.7/2021	IA(ST)/10060/2024	IA(ST)/10064/2024	3 months Rs.50,000/-
Criminal Appeal No.8/2021	IA(ST)/10059/2024	IA(ST)/10065/2024	3 months Rs.50,000/-

3. In all there are five complaints. Applicants preferred 5 appeals. They were dismissed on 4th September 2023 by separate judgments. The Applicant was taken into custody immediately. He was under the wrong impression that if he will undergo three months sentence he will be released from jail immediately. However, this conception was wrong for the reason that there is no order directing running of substantive sentence concurrently. Even otherwise, there is an order of compensation and there is a default sentence. When the Appeal was pending he has not deposited any amount. He waited for three months

but was not released from jail.

4. There is a correspondence in between the jail Superintendent and the learned Public Prosecutor on the point of how much period the Applicant should undergo the sentence. Learned Public Prosecutor opined that unless there is an order to run the sentence concurrently they will not run concurrently. This correspondence is on page 55 and 56 to Revision Application.

5. On this background, Revision is filed. There is delay of 140 days in preferring all these Revision Applications. That is why these Interim Applications and another Interim Applications for suspension of sentence. It is submitted that the Applicant is only earning member and his wife is suffering from heart problem and by-pass surgery is performed. Necessary documents are annexed at page 68 to 98 of the Revision Application. Learned Advocate relied upon the observations in case of *V.K. Bansal vs. State of Haryana and Ors.*¹. It is on the point of running of concurrent sentence in an offence under Section 138 of the Negotiable Instruments Act.

6. Let the Respondent – complainant needs to be heard on delay

1 AIR 2013 SC 3447

condonation as well as the prayer for running of concurrent sentence.

So let notices be issued in delay condonation application as well as in proposed Revisions returnable on **9th July 2024** in all these matters.

7. Applicant is ready to deposit 20% of the cheque amount.

Applicant sought time to furnish surety. In view of above, the following order is passed:-

ORDER

a. Let substantive sentence of imprisonment under Section 138 of the Negotiable Instruments Act imposed by the Judicial Magistrate, First Class, Dadra & Nagar Haveli, Silvassa as per separate judgments dated 5th April 2021 be suspended on furnishing P.B. and S.B. of Rs.10,000/- subject to following conditions:-

- (i) Applicant to deposit 50% of Rs.60,000/- (20% of cheque amount) before the trial Magistrate prior to his release of bail. And remaining amount be deposited within 8 weeks from today.
- (ii) Let him furnish surety in one case and other cases time

of 4 weeks is granted to him to furnish surety.

(iii) Till that time, he may be released on Personal Bond.

8. Parties to act upon authenticated copy of this order.

[S. M. MODAK, J.]