



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CRIMINAL APPLICATION NO. 2676 OF 2025 IN REVN/204/2025
WITH
CRIMINAL REVISION APPLICATION NO. 204 OF 2025

AVDHOOT KANTA TUNGAR
VERSUS
RAHUL FULCHAND GANDHI AND ANOTEHR

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- Mr. S. E. Shekade, Advocate for the Applicant
- Mrs. M. L. Sangit, APP for the Respondent/State
- Mr. P V. Chaudhari, Advocate for Respondent No.1

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CORAM : ADVAIT M. SETHNA, J.

DATE : 12 AUGUST 2025

P. C. :-

1. Heard learned Advocate for the parties.
2. This Application has been filed in the caption Criminal Revision

Petition praying for the following subsequent reliefs :-

“A] The Criminal Application may kindly be allowed.

*B] Pending hearing and final disposal of Criminal Revision
Petition, sentence imposed against the applicant by the Learned
Sessions Judge, Ahmednagar in Criminal Appeal No.39/2020
dated 12/06/2025 may kindly be suspended.*

C] Applicant may kindly be released on Bail.

D] Any other equitable relief may kindly be granted in favour of

present applicant.”

3. The learned Advocate for the Applicant would draw the attention of the Court to the judgment and order dated 16 January 2020 passed by the Additional Chief Judicial Magistrate, Court No.16, Ahmednagar in Sum.Cri.Cast No.632/2018, whereby the operative part of the said judgment and order reads thus :-

“01. Accused Avdhoot Kanta Tungar is hereby convicted for the offence punishable under section 138 of the Negotiable Instrument Act, vide section 255(2) of Cr.PC., and he is sentenced to undergo simple imprisonment for a period of 03 (three) months.

02. Accused is further directed to pay compensation of Rs. 6,00,000/- (Rs. Six Lacs only) to complainant within (02) two months from the date of the judgment, in default of payment of compensation amount, accused shall undergo further simple imprisonment for 03 (three) months.

03. Accused is entitled to the set off for the period of detention already undergone by him during trial as per Section 428 of the Code of Criminal Procedure, 1973.

04. Accused to surrender his bail bonds.

05. Copy of judgment be given free of costs to accused.”

4. Pursuant to such order of conviction, the Applicant in the present proceedings carried out this order further to the Sessions Court, Ahmednagar

by an order dated 12 June 2025. The Criminal Appeal of this Applicant was dismissed and the order of the JMFC, Ahmednagar as stated above was upheld. The following order was passed by the learned Sessions Court, Ahmednagar which reads as under :-

- “(1) The Criminal Appeal No.39/2020 is dismissed.*
- (2) The impugned judgment and order passed by learned Additional Chief Judicial Magistrate (Court No.16) Ahmednagar in S.C.C.No.632/2018 dated 16.01.2020 is hereby confirmed.*
- (3) Accused to surrender his bail bonds.*
- (4) Copy of judgment be sent to Ld. Trial Court for intimation and necessary action.*
- (5) R & P of S.C.C. No.632/2018 be returned to the trial court, if any,*
- (6) Copy of this judgment be provided to the appellant – accused free of cost.*
- (7) Dictated and declared in open court.”*

5. Being aggrieved by the aforesaid judgment and orders, the present Applicant has preferred this Application before this Court *inter alia*, praying for suspension of sentence. The impugned judgment would reveal that the Applicant has been punished for offence punishable under section 138 of the Negotiable Instrument Act, vide section 255(2) of Cr.P.C. to undergo simple imprisonment of three months. It is undoubtedly a short sentence.

There were no complaints against the Applicant while he was released on bail during the proceedings before JMFC, Ahmednagar and Sessions Court, Ahmednagar.

6. It also appears that the Applicant by order dated 16 January 2020 passed by JMFC, Ahmednagar was directed to pay compensation of Rs. 6,00,000/-. The learned Advocate for the Applicant submits that out of the said amount Rs. 4,40,000/- has been paid to the Respondent by the Applicant pursuant to such orders. As far as the balance amount is concerned, the learned Advocate for the Applicant would draw the attention of the Court to a compromise entered between the parties on 13 October 2022 before the District Mediation Centre, Ahmednagar when the proceedings were ongoing before the said Sessions Court. The said compromise is placed on record (at Exh-B) of these proceedings. The learned Advocate would further submits that the Applicant undertakes to pay the amount of Rs.70,000/- which according to him is the balance amount due and payable to the Respondent, within a period of two weeks from today. Such statement is accepted as undertaking to the Court. It is hereby made clear that if there are any amounts which are due and payable by the Applicant to the Respondent, the same shall be subject to the outcome of these proceedings.

7. The Applicant was on bail throughout the period of the proceedings before the JMFC as well as the Sessions Court. There are complaint of whatsoever nature against him.

8. It is trite law that such prayer for suspension of sentence, considering the period of sentence, can be duly considered in the given factual conspectus. There is no complaint against the Applicant of any violation of law for the period he was enlarged on bail in any manner whatsoever.

9. Considering the totality of facts and circumstances as noted above, prima facie in my view, the substantive sentence of this Applicant ought to be suspended by passing the following order :-

ORDER

- i. Pending hearing and disposal of the Criminal Revision Petition and until further orders, the sentence imposed against the Applicant by the learned Sessions Judge, Ahmednagar stands suspended.
- ii. The Applicant be released on bail on executing of P.R. Bond of Rs.25,000/- with one surety in the like amount.
- iii. Bail before the Trial Court.

(ADVAIT M. SETHNA, J.)