

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

**Interim Application No.1019 of 2025
in
Criminal Revision Application No.113 of 2025**

Anand Venkatesan Iyer
Age 46 years, Indian Inhabitant,
R/at 304, Building No.4,
Survodaya Garden, Wallipir Road,
Near Bhanusagar Talkies, Kalyan,
District Thane.

... Applicant/
(Orig. Accd No.2)

Versus

1. State of Maharashtra

2. Mahalaxmi Subramaniam
Age 47 years, Occ. Business,
Proprietor of M/s Sharpenn
Industries, having office at
P.O. Box No. 19, D-56,
Shanmuganands MIDC,
Behind London Pilsner, Nerul,
Navi Mumbai – 400 706.
Through her Constituted Attorney
Mr Mahadev (Mani) Subramaniam
Age Adult, Occ. Business.

... Respondents
(Orig. Complainant)

Mr Jehangir Khajotia, for the applicant.

Ms Manisha Tidke, APP, for respondent No.1/ State.

Ms Madhura Mulay, along with Mr Sandeep Mishra and Mr GP Gadity, for respondent No.2.

Coram: R.N. Laddha, J.

Date: 6 May 2025

P.C.:

The applicant (accused No.2) faced trial in SCC No.10348 of 2015 before the Judicial Magistrate First Class, Vashi, Navi Mumbai, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act'). The trial Court, vide the judgment and order dated 11 April 2018, convicted the applicant and sentenced him to suffer simple imprisonment for six months along with a direction to pay Rs.6,00,000/- (with default stipulations) to respondent No.2 towards compensation. Aggrieved thereby, the applicant preferred an appeal bearing No.220 of 2023 before the Additional Sessions Judge, Belapur, Navi Mumbai, which was dismissed on 24 February 2025. Dissatisfied, the applicant approached this Court in its revisional jurisdiction and, by the present application, seeks suspension of the sentence and release on bail pending the outcome of the revision.

2. I have heard Mr Jehangir Khajotia, the learned Counsel appearing on behalf of the applicant/ accused, Ms Manisha Tidke, the learned Additional Public Prosecutor representing respondent No.1/ State, and Ms Madhura Mulay, the learned Counsel appearing for respondent No.2/ complainant.

3. The learned Counsel for the applicant/ accused highlights the alleged shortcomings in the prosecution's case and contends that the testimonies of the prosecution witnesses lack credibility and fail to inspire confidence. He submits that the applicant has already deposited Rs.50,000/- and undertakes to deposit Rs.3,00,000/- within a period of three weeks. The learned Counsel further submits that the applicant has been languishing in jail for over two months. Furthermore, the applicant was on bail throughout the trial and appeal proceedings and should deserve the same treatment during the pendency of the revision. The applicant is willing to comply with any condition imposed by this Court and cooperate fully with revision proceedings if released on bail.

4. The learned Counsel for respondent No.2/ complainant opposes the applicant's request. She contends that both the trial court and the appellate court conducted a thorough examination of the evidence on record and concluded, with a

high degree of certainty, that the applicant was guilty beyond a reasonable doubt. The learned Counsel submits that the evidence on record strongly supports the prosecution's case and does not warrant suspending the applicant's sentence and releasing him on bail. The learned Additional Public Prosecutor representing respondent No.1/ State submits that the offence under Section 138 of the NI Act is between two private parties and appropriate orders may be passed.

5. This Court has considered the submissions across the Bar and perused the records.

6. It appears that the alleged cheque in question was issued in January 2015. The crux of the allegation is that the applicant, director of accused No.1, assured respondent No.2 of securing a loan of Rs.15,00,00,000/- from the Punjab National Bank. To facilitate this, the applicant demanded Rs.5,00,000/-, which respondent No.2 transferred through RTGS. As disagreements arose between the parties, the applicant agreed to return the accepted sum by issuing the cheque in question, which was dishonoured.

7. It is a settled position in law that in cases where the term of the sentence is fixed, the revisional Court may leniently

consider a convict's request under Section 389 of the Code of Criminal Procedure, 1973, except in exceptional circumstances or where statutory restrictions apply. If the sentence cannot be suspended, the revisional Court must endeavour to adjudicate the revision on merits, especially when there is a request for expeditious resolution. Failing to do so could jeopardise the applicant's statutory rights due to the passage of time. When practical circumstances hinder prompt resolution, the Court must exercise heightened diligence in deliberating on sentence suspension to maintain the effectiveness of the revision process. Furthermore, when granting bail, the revisional Court has the discretion to impose certain conditions. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in *Bhagwan Rama Shinde Gosai v. State of Gujarat*¹.

8. The maximum sentence imposed upon the applicant is six months. While this Court is mindful of the submissions advanced by the learned Counsel for respondent No.2 and the fact that the proceedings are at the post-conviction stage, it is essential to recognise that the applicant has already served more than two months of the six-month sentence. The applicant was enlarged on bail during the pendency of the trial and the appeal

¹ (1999) 4 SCC 421

proceedings. Furthermore, the learned Counsel for the applicant undertakes to deposit an amount of Rs.3,00,000/- out of the compensation amount of Rs.6,00,000/- within a period of three weeks from today. Considering the short sentence and the unlikelihood of the present revision being heard in the near future due to the pendency of older revision applications, this Court deems it fit to suspend the applicant's sentence and release him on bail during the pendency of the revision. Hence, the following order:

ORDER

(i) The sentence imposed upon the applicant vide the judgment and order dated 11 April 2018 passed by the Judicial Magistrate First Class, Vashi, Navi Mumbai, in SCC No.10348 of 2015, and confirmed by the judgment and order dated 24 February 2025 passed by the learned Additional Sessions Judge, Belapur, Navi Mumbai, in Criminal Appeal No.94 of 2018, stands suspended during the pendency of the revision.

(ii) The applicant shall be released on bail upon furnishing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the

like amount.

(iii) The conditions outlined in clauses (i) and (ii) above shall take effect only after the applicant deposits Rs.3,00,000/- before the appellate Court within three weeks from the date of uploading of this Order.

9. The interim application stands disposed of accordingly.

(R.N. Laddha, J.)