



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 377 OF 2026
IN REVN/36/2026**

Sai Foods and Agro Agencies
Through its Proprietor,
Maruti S/o. Laxman Revgade,
Age : 54 years, Occu.: Business,
R/o. Hivargaon Ambare, Tq.Akole,
District Ahmednagar.

..Applicant
(Orig. Accused)

Versus

1. Sunil S/o. Bansilal Rathi
Age: 56 years, Occu.: Business,
R/o. Vithoba Lane (Galli),
Bazar Peth, Sangamner,
Tal. Sangamner, Dist.Ahmednagar.

2. The State of Maharashtra
Through Police Inspector,
Sangamner City Police Station.

..Respondent

...

Advocate for Applicant : Mr. Satyajeet S. Dixit
Advocate for Respondent no.1 : Mr.A.N.Nagargoje
APP for Respondent no.2 : Mr.S.M.Ganachari

....

CORAM : ABHAY S. WAGHWASE, J.

DATE : 28 JANUARY, 2026

ORDER :-

1. Present application is for suspension of sentence and grant of bail on account of judgment and order of conviction dated 24-07-2023 passed by learned Additional Chief Judicial Magistrate

(Court No.6), Sangamner in SCC No.1041 of 2021 for offence under Section 138 of the Negotiable Instruments Act (NI Act) and as affirmed by learned Additional Sessions Judge, Sangamner by judgment and order dated 19-01-2026 passed in Criminal Appeal No.18 of 2023.

2. In brief facts of case are that, respondent no.1 is a businessman. Applicant is running a firm under name and style "Sai Foods & Agro Industries". The applicant and respondent no.1 developed friendly relations. Applicant was conducting business of sealed water bottles through his firm. In August, 2020 applicant had requirement of capital, hence, he requested respondent no.1 to give him funds for his business. Applicant has agreed to give profit of Rs.4/- per box of bottles. Therefore, on 05-08-2020, respondent no.1 had transferred Rs.25,00,000/- to applicant firm. Later on Applicant requested respondent no.1 to accept profit of Rs.3/- per box of bottles and the request was accepted by respondent no.1. However, applicant has not paid profit amount as per contract and hence, respondent no.1 asked applicant to return Rs.25,00,000/-. Applicant has issued three cheques in the name of respondent no.1. However, all cheques were dishonoured with endorsement "insufficient funds".

Therefore, demand notice was issued and thereafter, SCC No.1041 of 2021 was instituted against applicant under Section 138 of the NI Act.

3. Learned Counsel for the applicant would submit that present applicant was tried by learned Chief Judicial Magistrate, Sangamner vide SCC No.1041 of 2021 for aforesaid offence and by judgment and order dated 24-07-2023, conviction came to be recorded. The same was taken exception to by filing Criminal Appeal No.18 of 2023, but the same has been dismissed by judgment and order dated 19-01-2026 by the learned Additional Sessions Judge, Sangamner by affirming the judgment of the learned Additional Chief Judicial Magistrate.

4. Learned counsel for the applicants submits that both the Courts below have misread and misconstrued the evidence brought on record and have committed error in convicting the applicant for offence under Section 138 of the NI Act. That, applicant has a good case on merits and he has every hope to succeed in revision. That, there are material admissions given by respondent no.1 during his cross examination which falsifies prosecution case. According to

him, there is arguable case in revision before this Court. However, as the revision is filed in 2026, he submits that the same will not be heard in near future. Thus, during pendency of revision, prayers for suspension of sentence and grant of bail are urged for.

5. Above application is opposed by learned counsel for respondent. He submits that if at all this Court is inclined to allow application, the respondent no.1 may be directed to deposit some amount in the trial Court.

On query by the Court, learned counsel for applicant submitted that he has already deposited Rs.6,70,000/-.

6. There are no immediate prospects of hearing of the revision, which is filed in 2026. Resultantly, application deserves to be allowed. Hence, following order :

ORDER

- (i) Criminal Application No.377 of 2026 is allowed.
- (ii) The substantive sentence imposed on the applicant by the learned Additional Chief Judicial Magistrate, Sangamner in SCC No.1041 of 2021 and confirmed by learned Additional Sessions Judge, Sangamner on 19-01-2026 in Criminal Appeal No.18 of 2023, stands suspended till final hearing

and disposal of Criminal Revision Application No. 36 of 2026, **subject to** deposit of Rs.5,00,000/- by the applicant in the Court of Additional Chief Judicial Magistrate, Sangamner, within a period of two weeks from today

(iii) Applicant be released on P.R. Bond of Rs.15,000/- (Rs. Fifteen thousand only) with one solvent surety in the like amount.

(iv) Bail before the trial Court.

(**ABHAY S. WAGHWASE**)
JUDGE

SPT