

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1412 OF 2025

Smt. Geeta Lahu Navle ...Applicant

Versus

Smt. Shalaka Vijay Mandavkar and anr. ...Respondents

WITH

CRIMINAL APPLICATION NO. 1406 OF 2025

Smt. Geeta Lahu Navle ...Applicant

Versus

Vijay Gangaram Mandavkar and anr. ...Respondents

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Mr. Rajender Singh Saluja, a/w Arshad Khan, for the
Applicant.

Mr. D. J. Haldankar, APP for the Respondent No.1 - State.

Ms. Purva Pradhan, i/b Mahesh Rawool, for Respondent No.1.

CORAM: N. J. JAMADAR, J.

DATED: 18th FEBRUARY, 2026

Order:-

1. Heard the learned Counsel for the parties.
2. These applications under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, ("BNSS, 2023") are filed seeking proportionate reduction in the sentence imposed upon the applicant in default of payment of fine in complaints SCC/1043/2015 and SCC/1042/2015, wherein the applicant has been convicted for an offence punishable under Section 138

of the Negotiable Instruments Act, 1881 (“the NI Act, 1881”) and sentenced to suffer fine with default stipulation.

3. Shorn of superfluities the background facts can be stated as under:

3.1 Respondent No.1 in each of the applications filed complaint against the applicant for an offence punishable under Section 138 of the NI Act, 1881. In SCC/1043/2015 – out of which Application No.1412/2025 arises – the applicant was found guilty and was sentenced to pay a fine of Rs.7,00,000/- and, in default of payment of fine, to undergo simple imprisonment for six months. In Complaint SCC/1042/2015 – out of which Application No.1406/2025 arises – the applicant was found guilty and sentenced to pay a fine of Rs.3,70,000/- and in default to undergo simple imprisonment for six months. In both the complaints, the amount of fine, if realized, was directed to be paid to the complainant under Section 357(1)(b) of the Code of Criminal Procedure, 1973 (“the Code”).

3.2 The applicant preferred appeals before the Court of Session, being Criminal Appeal Nos.69/2022 and 70/2022. By judgment and order dated 24th July, 2025, the learned Additional Sessions Judge, Kalyan, dismissed both the appeals.

3.3 Thereupon, the applicant was taken in custody on 24th July, 2025 to undergo the default sentence. Since then, the applicant has been undergoing the sentence in default of payment of fine.

3.4 The applicant has invoked the inherent jurisdiction of this Court seeking proportionate reduction in the sentence as the applicant has paid a part of the fine imposed by the learned Magistrate, in each of the complaints. In SCC/1043/2015 out of the total fine amount of Rs.7,00,000/- the applicant claimed to have deposited and/or paid to the complainant, a sum of Rs.2,30,000/-. In SCC/1042/2015, the applicant claimed to have deposited and/or paid a sum of Rs.84,000/- towards fine, out of the total fine amount of Rs.3,70,000/-. Thus, the applicant prayed for reduction of the in default sentence proportionate to the amount of fine deposited/paid by the applicant.

4. Mr. Saluja, the learned Counsel for the applicant, submitted that there is no dispute about the amounts deposited/paid by the applicant towards fine in the respective complaints. Mr. Saluja invited attention of the Court to the copies of the receipts and acknowledgments of payment by the complainant, annexed to the respective applications. Banking

upon the provisions contained in Section 69 of the Indian Penal Code, 1860, Mr. Saluja would urge that the applicant is entitled to the proportionate reduction in the sentence.

5. Ms. Pradhan, the learned Counsel for respondent No.1, in each of the complaints, did not dispute the factum of payment of the respective amounts of fine, in the respective complaint, as claimed by the applicant. It was, however, submitted that since the applicant has committed default in payment of fine, the prayer for proportionate reduction in the sentence cannot be countenanced.

6. There is not much controversy over the facts material to the determination of these applications. The imposition of fine of Rs.7,00,000/- in complaint SCC/1043/2015 and Rs.3,70,000/- in complaint SCC/1042/2015, with a default sentence of six months simple imprisonment, is incontrovertible. Indisputably, the applicant has been taken in custody on 24th July, 2025 to undergo the default sentence. By and large, it could not be controverted that the applicant has deposited/paid a sum of Rs.3,70,000/- in SCC/1042/2015 and Rs.84,000/- in SCC/1043/2015. The applicant has also placed on record the documents to substantiate the claim of part payment of the fine amount.

7. Sections 68 and 69 of the Indian Penal Code, 1860 read as under:

“Section 68. Imprisonment to terminate on payment of fine.—

The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Section 69. Termination of imprisonment on payment of proportional part of fine.—

If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.”

Illustration

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.”

8. A sentence in default of payment of fine springs to life only in the event of default. However, a situation may arise where the convict may be in a position to deposit the fine after he is made to undergo in default sentence. Section 68 of the Penal Code, thus, provides that the imprisonment which is imposed in

default of payment of fine shall terminate no sooner the fine is paid or levied by process of law.

9. A situation is not inconceivable where the convict may deposit a portion of fine only and not the whole amount of fine. Section 69 addresses such a contingency. If a portion of fine is paid while undergoing the imprisonment in default of payment of fine, by application of the provisions contained in Section 69 of the Penal Code, there would be a proportionate abatement of the sentence. The illustration to Section 69 makes the position abundantly clear.

10. In the case at hand, in SCC/1043/2015, as noted above, the applicant has deposited/paid an amount of Rs.2,30,000/- which comes to approximately 32.8% of the fine (Rs.7,00,000/-) imposed on the applicant. Whereas in SCC/1042/2015, the applicant has deposited/paid Rs.84,000/- which comes to approximately 22.7% of the fine amount (Rs.3,70,000/-). In each of the complaints, the applicant has been sentenced to suffer six months simple imprisonment in default of payment of fine. The sentence in default of payment of fine has to run concurrently as the provisions contained in Section 468 of the BNSS, 2023 (Section 428 of the Code, 1973) do not govern imprisonment in default of payment of fine.

11. Resultantly, in each of the cases, the applicant would be entitled to proportionate abatement in the sentence of imprisonment in default of payment of fine. The learned Magistrate would, therefore, be required to pass an appropriate order to direct the proportionate reduction in imprisonment in default of payment of fine in each of the complaints, and further direct the release of the applicant upon the completion of the period of imprisonment in default of payment of fine after proportionately reducing the days of imprisonment. The applications, therefore, deserve to be allowed.

12. Hence, the following order:

: O R D E R :

- (i) The applications stand allowed.
- (ii) It is declared that the applicant is entitled to reduction in the sentence in default of payment of fine proportionate to the amount of fine deposited/paid in each of the complaints (Rs.2,30,000/- in SCC/1043/2015 and Rs.84,000/- in SCC/1042/2015).
- (iii) The learned Magistrate shall pass an appropriate order directing deduction of the days proportionate to the fine deposited/paid in each of the complaints and also direct

the release of the applicant after deducting the days proportionate to the fine deposited/paid from the period of six months, in each of the complaints.

All concerned to act on an authenticated copy of this order.

[N. J. JAMADAR, J.]