



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL REVISION APPLICATION (REVN) NO. 127 OF 2025

SUNIL KASHIRAM PATIL

Vrs.

THE MAHARASHTRA AGRO INDUSTRIES DEVELOPMENT CORPORATION LTD.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri K. D. Bhende, Advocate for applicant.
Shri S. P. Rajurkar, Advocate for non-applicant-sole.

CORAM: URMILA JOSHI-PHALKE, J.

DATE : 02/02/2026.

1. By this revision, applicant has challenged the order dated 24/06/2025 passed by the Additional Sessions Judge, Akola directing the present applicant to pay amount of 20% of the cheque within one month as a pre-condition for suspension of the sentence.

2. Heard learned counsel for the applicant who submitted that the present applicant is convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (For short, "NI Act") and sentenced to suffer Simple Imprisonment for one month and pay fine of Rs.27,71,162/- and in default of payment, he shall further undergo Simple Imprisonment for 15 days.

3. Being aggrieved and dissatisfied with the same, present applicant has preferred Criminal Appeal No.100/2025 before the Additional Sessions Judge, Akola.

4. Considering the mandate under Section 148(1) of the NI Act, the Sessions Court observed that it is necessary to direct the appellant / accused to deposit considerable amount of compensation with the Court and in view of mandate of Section 148 (1) of the NI Act by considering the decision of the Hon'ble Apex Court in the case of Jamboo Bhandari Vrs. M. P. State Industrial Development Corporation Ltd. and others in Criminal Appeal No.2741/2023 directed the present applicant to deposit 20% of the amount of cheque with this Court within one month from the date of this order.

5. Being aggrieved and dissatisfied with the same, present revision application is preferred by the applicant on the ground that the Appellate Court has not passed any reasoned order and not made out a case from the reasoned order that it is exceptional case wherein the discretion is to be exercised by the Court. He submitted that the order passed by the learned Additional Sessions Judge is not at all supported by any reasoning as far as depositing the amount is concerned.

6. In view of that, order passed by the Additional Session Judge, Akola deserves to be quashed and set aside.

7. Per contra, learned counsel for the non-applicant submitted that in view of Section 148(1) of the NI Act, the discretion at the hands of the Appellate Court

to deposit such sum which shall be minimum of 20% of the fine of compensation awarded by the Trial Court.

8. On the contrary, Trial Court has already considered the aspect and directed to pay 20% of cheque amount and therefore, discretion is not only used in favour of the complainant, but the discretion is used in favour of the present applicant also. Therefore, revision being devoid of merit, liable to be dismissed.

9. On hearing both sides and on perusal of impugned order as well as the Judgment and order passed in Summary Criminal Case bearing SCC No.1487/2016, the Trial Court while considering the evidence which is adduced by the complainant as well as present applicant, who was accused and by appreciating the evidence and considering the legal provisions, came to the conclusion that the offence under Section 138 of the NI Act is proved against the present applicant and thereafter, passed an operative part of the Judgment directing the present applicant to undergo Simple Imprisonment for one month and fine of Rs.27,71,162/- and the said amount was also directed to be given as compensation to the complainant.

10. Being aggrieved and dissatisfied with the same, Criminal Appeal No.100/2025 was preferred. In view of Section 148(1), the Additional Sessions Judge, Akola has exercised the discretion and thereafter, directed the present applicant to deposit 20% of the cheque amount. On perusal of Section 148(1) of the NI Act, which

deals with the power of Appellate Court to order pending appeal against conviction which reads as under :-

“148(1). Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in an appeal by the drawer against conviction under Section 138, Appellate Court may order the appellant to deposit such sum which shall be minimum of twenty per cent of the fine or compensation awarded by the Trial Court”.

11. By exercising the discretion in favour of the complainant, the Appellate Court by recording the reasons by referring the Judgment of Jamboo Bhandari, referred supra, directed the applicant to deposit the amount.

12. On perusal of the judgment of **Jamboo Bhandari**, wherein the Hon'ble Supreme Court observed that “when an accused applies under Section 389 of the Code of Criminal Procedure for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the Court has to consider whether the case falls in exception or not.”

13. In the above case, the Sessions Court had proceeded by recording its reasons by directing to deposit minimum 20% of the amount which is legal and proper one. No interference is called for.

14. As the revision being devoid of merits, liable to be dismissed.

15. Accordingly, I proceed to pass the following order :-

ORDER

Revision application is dismissed.

[JUDGE]

Choulwar