

IN THE COURT OF PRINCIPAL DISTRICT &
SESSIONS JUDGE, BELAGAVI

Dated this the 5th day of March 2025

PRESENT

Sri T. N. Inavally, B.A.L., LL.B.
Principal District & Sessions Judge,
Belagavi

Crl. Appeal No.316/2024

Appeallant: Sri. Channappagouda Chambanagouda
Patil, Age: 57 years, Occupation: Business,
R/o: Gaddi Oni, Kittur,
Taluk: Kittur, District: Belagavi.

(Represented by Sri M.U. Hiremath, Advocate)

Vs.

Respondent: Kittur Rani Channamma Urban Credit
Souhardha Sahakari Niyamit
Having its H.O. at Bailhongal,
Kittur Branch, R/by its Recovery Assistant,
Sri. Ramesh Vidyadhar Ghali
Age: 47 years, Occ : Recovery Assistant.
R/o: Nippani, District: Belagavi.

(Represented by Sri S.V. Salimath, Advocate)

ORDER ON APPLICATION FOR RELAXATION

This application is filed by the learned counsel for the appellant praying for an order to relax the condition regarding deposit of $\frac{1}{4}^{\text{th}}$ of the fine amount in the interest of justice.

2. The contention of the learned counsel for the appellant is that this Court has passed order on IA No.1 staying operation and execution of the order of sentence passed by the trial Court against the appellant subject to deposit $\frac{1}{4}^{\text{th}}$ of the fine amount with one surety. But the appellant has not arranged the amount to deposit. As per the order of the Court and Section 148 of Negotiable Instruments Act, the deposit of minimum 20% amount is not an absolute rule and it can be relaxed in exceptional case. The said condition is not convenient to the appellant and it requires to be relaxed. Therefore, the learned counsel for the appellant has prayed for relaxation of the condition.

3. The copy of the application has been furnished to the learned counsel for the respondent and he has filed objections submitting that the application is false and not tenable in the eyes of law and same is liable to be dismissed and for the reasons mentioned in the objections, the learned counsel for the respondent has prayed for dismissing the application.

4. Heard the arguments of the learned counsel for the appellant and also the learned counsel for the respondent on the application. Perused the relevant materials on record. Now the point that arises for my consideration is:

Whether the appellant has made out any sufficient ground to relax condition of the stay order regarding deposit $\frac{1}{4}^{\text{th}}$ of the fine amount before the trial Court, as sought for in the application?

5. The contention of the learned counsel for the appellant is that in exceptional cases the condition to deposit of 20% amount of the fine amount can be relaxed. He has produced the decision of the Hon'ble Apex Court in ***Criminal Appeal No.2741/2023 (SLP(Crl) No.4927/2023)*** decided on **04.09.2023**,

wherein the condition imposed while considering the application under Section 451 of Cr.P.C. is relaxed. Further, the learned counsel for the appellant has drawn the attention of this Court to the decision of the Hon'ble Apex Court in *Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. and others* reported in *2023(3) MWN (Cr.) DCC*. As per the said decision, it would be clear that the deposit of 20% of the compensation amount is not an absolute rule and it can be reduced by assigning reasons.

6. However, as submitted by the learned counsel for the respondent, there is absolutely no dispute regarding principles of law laid down in the above referred decisions. But, in the case on hand, the stay was granted subject to the condition as early as on 06.11.2024. But the appellant failed to comply with the said order. Thereafter, on 26.11.2024 as per the order on the application filed by the appellant, the period for complying the conditions is extended with the condition that both the parties shall assist the Court to dispose of the appeal on merit within 3

months from the date of order i.e., on 26.11.2024. But in spite of extension of period for deposit of 20% fine amount, the appellant has not chosen to comply on the condition of the said order.

7. Further, as submitted by the learned counsel for the respondent in spite of the fact that the trial Court records are already received, the appellant is not ready to proceed with the appeal to be heard on its merits. There is absolutely no ground for relaxation of condition as sought for in the application. Moreover, as per the submission of the learned counsel for the appellant itself, it is clear that the condition can be relaxed in exceptional cases. There is no exceptional ground made out by the appellant in the case on hand for relaxation of condition.

8. In support of the principle of law laid down in the above referred decisions, there is absolutely no ground made out by the appellant for relaxation of the condition of order of stay in depositing $\frac{1}{4}^{\text{th}}$ of the fine amount before the trial Court.

Consequently, the appellant has failed to make out any sufficient ground, much less any ground for relaxing the condition of stay order as sought for in the application.

9. In the result, there is absolutely no ground made out by the appellant to allow the application. Hence, answering the above point in the negative, I proceed to pass the following:

ORDER

The application filed by the learned counsel for the appellant for relaxation of condition is hereby rejected.

*(Dictated to the Stenographer transcribed by her, corrected and then pronounced by me in Open Court on this **the 5th day of March 2025**)*

(T. N. Inavally)
Principal District & Sessions Judge,
Belagavi