

IN THE COURT OF SESSIONS AT AKOLA
(Presided over by Smt. S.C. Jadhav, Additional Sessions Judge)

Cri. Appeal No. 181/2024

Anis Rannu Dargiwale
-Vs.-
Kaushalkishor Tulsiram-1

ORDER BELOW EX.10
[Passed on 15.01.2025]

1] The appellant has filed present applicant and prayed for permission to deposit 1/5 amount of compensation. It is submitted that the appellant has convicted by the Trial Court on 15.06.2024 in SCC No. 2811/2022 filed by the respondent No. 1 under Section 138 of N.I. Act. The appellant is responsible person. His family members depend upon him. The appellant is suffering from financial crises. He is unable to deposit total fine amount. It is also submitted that the appellant is ready to deposit 1/5th amount out of total fine amount. Hence, permission be granted to deposit the said amount in the Lower Court.

2] To support his argument, he relied on the ratio laid down in **Jamboo Bhandari Vrs. M.S. State Development Corporation Ltd. and Ors, Criminal Appeal No. 2741/2023**. In this case, the Hon'ble Apex Court observed that in case where the Appellate Court is satisfied that the condition of deposit of 20% will be unjust or imposing such a condition will amount to deprivation of the right of appeal of the appellant, exception can be made for the reasons specifically recorded.

3] Application is strongly opposed by the original complainant/respondent. It is submitted that the appellant had filed application Exh. 5 for suspension of sentence, wherein he was ready to abide by all the terms and conditions imposed by the Court. As per provision under Section 148(2) of N.I.Act, the amount must be deposited within 60 days of the order or within further 30 days if the Court directs. Therefore, according to respondent, the application is not tenable and the opportunity for depositing 20% compensation amount is lapsed. Hence, the respondent prayed to reject the application.

4] Heard both sides. Perused say and record. The appellant is convicted by the Trial Court on 15.06.2024 in SCC No. 2811/2022 filed by the respondent/original complainant under Section 138 of N.I. Act.

5] The appeal is filed against the judgment and conviction. Along with appeal, the appellant/accused also filed an application (Exh. 5) for suspension of sentence. On 22.07.2024, this Court has suspended the sentence imposed by the Trial Court with directions to deposit 20% amount of compensation with the Court within one month from the order, in view of mandate under Section-148 of N.I. Act. Amendment under Section-148 of N.I. Act confers power the Appellate Court to pass an order pending the appeal to direct the appellant/accused to deposit the sum which shall be less than 20% of the fine or compensation.

6] The appellant has filed present application on 10.10.2024, he is ready to deposit 1/5 amount out of total compensation which is equivalent to the 20% of the total compensation. According to the appellant, he is suffering from some financial crises and whole family is depending upon him. Considering the facts, in the interest of justice, the application deserves to be allowed. Hence, I proceed to pass following order:-

ORDER

- 1] Application is allowed.
- 2] The appellant is hereby directed to deposit the amount as per order passed below Exh. 5 till next date without fail.

Date :15.01.2025

[Smt. S.C. Jadhav]
Additional Sessions Judge, Akola