

**Criminal Appeal No.31/2023**  
CNR No. MHBI04-001306-2023

**Sachin s/o. Kishanrao Dahiwal**

**Vs.**

**Dadarao s/oi. Sambhaji Munde**

**ORDER BELOW EXH.01.**

1. This is an application for grant of stay to the conviction of the appellant / accused passed in S.C.C.No.566/2015 by suspending it during pendency of hearing and final disposal of present criminal appeal.

2. Court perused the application and reply filed on behalf of the respondent / original complainant. Court heard the learned advocate Shri.V.D.Shinde for the appellant / accused and went through the case law of **Jamboo Bhandari Vs. Madhya Pradesh Statge Industrial Development Corporation Limited and Others 2023 DGLS (SC) 994**. Court heard the learned advocate Shri.A.T.Chate for the respondent i.e. original complainant.

3. Observing the grounds put-forth by the appellant, these are necessary to be dealt with and therefore, it is just and proper to suspend the conviction of the appellant. Though it is so, in view of section 148(a) of the Negotiable Instrument Act, the appellate court should pass an order pending appeal to direct the appellant / accused to deposit 20% of the amount of the compensation subject to conditions. However, the learned

advocate Shri.V.D.Shinde submitted that in view of aforesaid case law of **Jamboo Bhandari**, it is not mandatory that the appellant / accused to deposit 20% of said compensation amount. He prayed to consider said case law and exempt the appellant from depositing that much amount. Said case law is opposed by learned advocate Shri.A.T.Chate for the respondent. This court went through the case law minutely. Said case law guides that in exceptional cases, where the appellant / accused can show that he is not liable to deposit the amount, Court may exempt him, but said case law cannot be applied generally to all cases. Therefore, this court went through the judgment in the present case and found that this is not the exceptional case, wherein an exemption can be granted to the appellant / accused from depositing 20% of the amount. Said case law will not help to the appellant / accused. Hence, court passes following order.

**ORDER**

1.	The conviction of the appellant <i>accused Sachin</i> so. Kishanrao Dahiwal in S.C.C.No.566/2015 for the offence punishable under section 138 of the Negotiable Instrument Act, by the judgment and order passed by the learned Judicial Magistrate F.C. Parli, Dist. Beed stands suspended after complying following conditions;
	(a) the appellant / accused shall execute PR bond of Rs.15,000/- (Rs. Fifteen Thousand only) and furnishing surety of like amount,  (b) he shall deposit 20% amount of the compensation awarded to him within next 60 days without fail,

	(c) he shall not delay the hearing of the appeal,  (d) Infringement of aforesaid these conditions, will liable to vacate the said order to the conviction.
2.	R and P be called.

Date : 20.12.2023

Sd/-  
( Deepak D. Khoche )  
Additional Sessions Judge,  
Ambajogai

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CERTIFICATE

“I affirm that all the contents of this PDF file are word to word as per original judgment/order”.

Dictated on : 20.12.2023

Transcribed on : 21.12.2023

Checked & Signed on : 30.12.2023

Date : 30.12.2023

A.S.PANHALE  
STENOGRAPHER GR-1