

**IN THE COURT OF SESSIONS JUDGE, GONDIA.****CRIMINAL APPEAL NO. 58/2023****(CNR : MHGO010013952023)****Harishkumar -Vs- Laxmichand+1****ORDER BELOW EXH.04****(Passed on 01.11.2023)**

This application is filed by the appellant/original accused for suspension of sentence and grant of bail under section 389 of Cr.PC. It is submitted that the appellant has been convicted in SCC No.2969/2017 dated 25.09.2023. He is having good case on merit and has every chance of getting acquittal. Hence, prayed for suspension of sentence.

2. Heard learned advocate Mr. A. H. Upwanshi for the appellant/accused. Perused the application and impugned judgment and order.

3. The appellant/accused is convicted by learned JMFC, 6<sup>th</sup> Court, Gondia in Summary Criminal Case No. 2069/2017 dated 25.09.2023 for the offence punishable under section 138 of the Negotiable Instruments Act. He is sentenced to suffer simple imprisonment for 2 months and to pay compensation of Rs. 1,54,000/- within 30 days from the

date of order. In default he shall suffer simple imprisonment for 1 month.

4. The offence is of economical nature. Appeal is a statutory right of the appellant. Considering the grounds mentioned by the appellant/accused and the nature of the offence, the substantive sentence imposed on him needs to be suspended till disposal of appeal subject to deposit of 20% of compensation as per section 148 of Negotiable Instruments Act. The appellant/accused was on bail during trial. The learned advocate for the appellant submitted that the learned trial court has suspended the conviction of accused till the appeal period is over and granted bail on disposing cash surety. Therefore, the appellant/accused is entitled for bail till disposal of appeal. Hence, I proceed to pass the following order.

### **ORDER**

1. Application Exh.4 is allowed.
2. The substantive sentence imposed on the appellant/accused by the impugned judgment and order dated 25.09.2023 in Summary Criminal Case No.2069/2017 by the JMFC, 6<sup>th</sup> Court, Gondia for the offence punishable under section 138 of NI Act, is hereby suspended till disposal of this appeal.

3. The appellant/accused to deposit 20% of the compensation amount within one month.
4. The appellant/accused be released on bail on his executing PB & SB of Rs.15,000/- with one surety in the like amount.
5. Bail before learned trial court.
6. Inform the learned Trial Court accordingly.

Sd/-

Gondia.  
Date:- 01.11.2023.

(A. T. Wankhede)  
Sessions Judge, Gondia.