



**IN THE COURT OF DISTRICT JUDGE-2, & ASJ, GONDIA.**

**CRIMINAL APPEAL NO.44/2024.**

**(CNR NO.MHGO010015782024)**

**Shyam -Vs- Kanhaiyalal + 1**

**ORDER BELOW EXH. 04.**

**(Passed on this 15<sup>th</sup> day of September, 2024)**

This is an application filed by convict/appellant for suspension of sentence and his release on bail under Sec. 430 of B.N.S.S.

2] It is the contention of appellant that in Sum. Cri. Case No.1609/2018 vide impugned judgment and order dated 11.10.2024 passed by Ld. JMFC, Gondia he was sentenced to suffer S.I. for six months and to pay compensation Rs.1,00,000/- in default to suffer simple imprisonment of three month. Being aggrieved by impugned judgment and order he has preferred present appeal. The order was passed to issue conviction warrant. The appellant has good case and there is likelihood of his succeeding in the case. Accordingly, made prayer for suspension of sentence and release of applicant on bail.

3] Ld. APP Pardhi filed say on present application itself and opposed the application on the ground that offence is proved against the appellant.

4] Heard Ld. Advocate for complainant and Ld. APP for respondent No.2/State. During the course of argument ld. Advocate for appellant submits that appellant was on bail during the trial and he never jumped the bail and requested to suspend the sentence and release the appellant on bail.

5] On perusal of copy of impugned judgment and order passed in SCC No.1609/2018 it is clear that appellant is convicted for offence punishable under section 138 of N.I. Act and he is sentenced to suffer S.I. for six months and to pay compensation of Rs.1,00,000/- in default of payment of same he was ordered to suffer S.I. for three months. Appeal is statutory right of the appellant. He has been convicted for offence under section 138 of N.I. Act which is bailable. As per appellant he is on bail. Decision of appeal would take its own time. In such circumstances no prejudice would be caused to the complainant if sentence and order is suspended and appellant would be released pending appeal by imposing conditions as contained in section 148 of N.I. Act. Hence, pass following order.

**ORDER**

- 1] Application [Exh.4] is allowed in following terms.
- 2] Sentence imposed by impugned judgment dated 11-10-2024 in Sum Criminal Case No. 1609/2018 is hereby suspended till conclusion of the appeal on following conditions:

[i] Appellant shall deposit 20% of compensation amount in trial court within period of 30 days.

- 3] Pending appeal the appellant be released on his executing PR bond of Rs.25000/- and furnish one surety in like amount.

- 4] Bail to be furnished before the Trial Court.
- 5] Accordingly application stands disposed of.

Gondia.  
Dated: 15-10-2024.

(M. T. Asim)  
District Judge-2 & ASJ,  
**Gondia.**