



CNR:MHLA07-000179-2025.
Cri. Appeal No.07/2025.
Farukh V e r s u s State.

COMMON ORDER BELOW EXH.5 & 6.

1. Application below Exh.5 has been moved on behalf of appellant/accused praying that conviction be suspended till final conclusion of appeal and application below Exh.6 has been moved praying he be released on bail.

2. Advocate for appellant/accused submitted that the learned Trial Court has not considered the evidence brought on record in its proper perspective and convicted the accused/appellant. Appellant have hopes to succeed in the appeal. Therefore, the conviction is necessary to be suspended as per clause (1) of Section 389 of Cr.P.C. and accused/appellant be released on bail.

3. Section 389 of The Code of Criminal Procedure specify that pending any appeal by convicted person the appellate court may for reason to be recorded, order that the execution of sentence or order appealed against be suspended. The offence for which the appellant is convicted i.e. under Section 138 of Negotiable Instruments Act is bailable offence. The maximum punishment provided for this offence is up to 2 years and not more than 10 years. Therefore, the present case does not come under the first proviso of Section 389 of The Code of Criminal Procedure.

4. Section 148 of Negotiable Instruments Act provides that in an appeal by the drawer against conviction under Section

138, the appellate court may order appellant to deposit 20% of fine or compensation awarded by Trial Court. It further provide that said amount shall be deposited within 60 days from the date of order or within further period not exceeding 30 days.

5. In view of Section 389 of The Code of Criminal Procedure and Section 148 of N.I. Act, the application Exh.5 deserves to be allowed. The appellant is entitled to be released on bail and for suspension of conviction awarded by learned 2nd J.M.F.C., Udgir, on condition to deposit 20% of amount of compensation and on furnishing surety for the remaining amount. Hence, following order :-

ORDER

1. Application Exh.5 and Exh.6 are hereby allowed.
2. The order in S.C.C.No.103/2020 of sentencing the appellant to suffer S.I. of six months is hereby suspended till disposal of appeal and order to pay compensation of Rs.2,50,000/-, in default three months simple imprisonment, is suspended subject to condition that appellant shall deposit 20% of the amount of compensation of Rs.2,50,000/- and accused is released on bail on furnishing surety for the remaining 80% of the amount of compensation.
3. The appellant shall deposit the amount and furnish the surety as above within 60 days from today.
4. Application Exh.5 and Exh.6 are disposed of accordingly.

Date : 29.03.2025.

**(Smt. R.M. Kadam)
Additional Sessions Judge,
Udgir.**
