



Criminal Appeal No.22/2026
Prakash Dhopate ..Vs.. Bharat Hatekar+1
Order Below Exh-6
[Dated 04.02.2026]

By this application, the applicant is praying for suspension of sentence passed by the Additional Chief Judicial Magistrate, Wardha in S.C.C. No.3992/2019 on 06.01.2026, till the decision of the appeal and for grant of bail.

2. It is stated that the applicant has been convicted by the learned Additional Chief Judicial Magistrate, Wardha for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and has been sentenced to suffer simple imprisonment for six months. It further directed Rs.2,50,000/- be paid to the complainant towards compensation, as per Section 357(3) of the Code of Criminal Procedure and in default to suffer simple imprisonment for two months. The compensation amount is not deposited before the learned Magistrate. It is further stated that after his conviction, the applicant furnished bail before the Trial Court. He prayed that the appellant is an agriculturist and belongs to a poor financial background, and therefore requested that the condition requiring him to deposit a minimum of 20% of the compensation amount be reduced.

3. Heard Adv. Shri. S. V. Joshi for the accused and learned PP Shri. G. V. Takwale, for respondent No.2. Respondent No.2 objected the application.

4. The present appeal has been filed challenging the

aforesaid order of conviction on several grounds as set out in the Memo of Appeal. The consideration of all such grounds will necessarily take time. Pending such consideration, it is just and proper to suspend the sentence, particularly when the applicant was on bail during the course of the trial before the learned Magistrate.

5. On the issue of deposit of the compensation amount in the light of Section 148 of the Negotiable Instruments Act, learned Advocate for the appellant submitted that the appellant is an agriculturist and belongs to a poor financial background. He, therefore, prayed that the condition of depositing a minimum of 20% of the compensation amount be reduced. In support of this submission, reliance was placed on the judgment in **M/s Coromandel International Limited Vs. Shri Ambica Sales Corporation, reported in 2025 ALL MR (Cri.) Journal 321.**

6. The learned Magistrate, while convicting the appellant for the offence punishable under Section 138 of the Negotiable Instruments Act and sentencing him to suffer simple imprisonment for six months, also directed him to pay compensation of Rs.2,50,000/- under Section 357(3) of the Code of Criminal Procedure, and in default thereof, to suffer simple imprisonment for two months. In *M/s Coromandel* (supra), the Hon'ble Punjab and Haryana High Court held that imposing a condition to deposit 20% of the compensation amount awarded by the Trial Court is sustainable while deciding an application for suspension of sentence during the pendency of an appeal against conviction. It was further held that the Appellate Court may also hold that the suspension of sentence stands vacated upon non-compliance with such condition.

At the same time, it was clarified that the imposition of such a condition cannot take away the right of the Appellate Court to decide the appeal on merits. The Hon'ble High Court further held that, in exceptional circumstances, such a condition may be completely relaxed or the amount may be reduced by passing a reasoned order.

7. It is now a settled position of law that the provision of Section 148 of the Negotiable Instruments Act is discretionary in nature, and the condition of deposit can be relaxed or the amount can be reduced; however, the appellant must satisfy the Appellate Court to avail such relaxation. In the present case, from the judgment and order passed by the Trial Court, it is evident that the cheque amount was paid to the appellant by respondent No.1/complainant in the year 2014, with an assurance that the same would be returned in the year 2015. Thus, the amount has remained with the appellant since the year 2014–2015. At this stage, the judgment and order nowhere indicate that the appellant has repaid even a single paisa. More than ten years have elapsed since the amount was advanced to the appellant. It appears that the appellant has enjoyed the said amount without making any repayment whatsoever to respondent No.1.

8. By merely making a vague contention that he lacks the financial capacity to deposit the minimum amount of compensation as contemplated under Section 148 of the Negotiable Instruments Act, the appellant seeks to absolve himself of the statutory obligation to deposit the minimum amount while seeking suspension of sentence. No documentary material has been placed on record to substantiate the plea of poor financial condition. Undoubtedly, in

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exceptional cases, such a condition can be relaxed or the amount can be reduced; however, the appellant has failed to produce any cogent material or establish any exceptional circumstances warranting such relaxation. Consequently, with due respect, the judgment relied upon by the learned Advocate for the appellant does not assist him in seeking any reduction or waiver of the deposit. I, therefore, find no substance in the said contention advanced on behalf of the appellant. In the light of the above, I pass the following order :-

-ORDER-

- 1) The application (Exh.6) is allowed.
- 2) The sentence passed in S.C.C. No.3992/2019 by the Additional Chief Judicial Magistrate, Wardha on 06.01.2026 is suspended, till the decision of the appeal and till that time, the applicant be released on executing a Personal Bond of Rs.50,000/- (Fifty Thousand Rupees only) with a surety in the like amount.
- 3) The applicant shall deposit 20% of the compensation amount within a period of sixty days from the date of this order, before the learned Magistrate.

Wardha.
Dated: 04.02.2026

[H.B. Gaikwad]
Sessions Judge, Wardha.