

Cri. Appeal No. 18/2025
Aditya Vs. Rushabh+1

ORDER BELOW Exh.02

(Delivered on this 12th day of June, 2025)

1. Pending the appeal, the applicant/accused herein preferred this application for suspension of sentence and grant of bail.
2. Being aggrieved by the judgment and order dated 05/05/2025 passed by learned Judicial Magistrate First Class (Court No.5) Yavatmal in Sum. Cri. Case No.3719/2016 the accused herein has preferred this appeal. The learned trial Court convicted the accused for the offence punishable under section 138 of the N.I. Act and sentenced him to suffer simple imprisonment for 15 days and to pay fine of Rs.1,00,000/- in default to suffer simple imprisonment for 3 months. Entire fine amount has been ordered to be paid as compensation to complainant. According to the appellant the appeal deserves to be admitted. It will take time for disposal in accordance with the law. He has hope of success in the appeal. He is ready to abide with all the terms and condition if any imposed upon him. Amid pendency of appeal, if sentence of conviction imposed upon him is not suspended it will cause great prejudice upon him. On all above counts, the accused implored for suspension of sentence and his enlargement on bail.
3. Perused record. Heard appellant counsel. Gone through certified copy of impugned judgment dated 05/05/2025.

Admittedly, the offence for which accused is convicted is bailable in nature. It seems the accused was on bail throughout the trial. The accused is resident of Naringe Nagar, Dhamangaon Road, Yavatmal. Apparently there is no reason to infer that, he would abscond if enlarged upon bail. No such past conduct is manifest. He is sentenced to imprisonment for a term not exceeding three years. Thus, in opinion of this Court the appellant accused has made out case for suspension of sentence.

4. At this juncture the primal point which needs deliberation is in regard to deposit of certain sum out of the compensation pending the appeal. The appellant/accused has prayed that he is ready to abide all conditions which may be imposed for suspending his sentence. It has been held in certain cases by Hon'ble Appellate Court that order directing payment of 20% of fine or compensation should not be passed mechanically. However, under the factual matrix of the case there is no impediment for the same. Ergo, I ordain as follows :

ORDER

1. Application is allowed.
2. The execution of sentence imposed upon appellant vide judgment and order dated 05/05/2025 passed in Sum. Cri. Case No. 3719/2016 is hereby suspended till conclusion of the appeal or further orders, whichever is earlier, subject to following terms and conditions.
 - (i) The accused/appellant be released on P.B. and S.B of Rs.50,000/-.

- (ii) The accused/appellant shall deposit such sum which shall be 20% of the fine or compensation amount awarded by the trial Court, within 60 days from the date of this order, vide section 148 of the Negotiable Instruments Act.
- (iii) Inform learned Trial Court accordingly.

Date: 12/06/2025

(S. R. Sharma)
Additional Sessions Judge,
Yavatmal