

Cri.Appl. No. 41/2024.
Ashok V/s Keshav
(CNR No. MHYA010023612024)

-: ORDER BELOW EXH. 02 IN CRI. APPEAL NO.41/2024 :-
(Delivered on this 18th Day of November 2024)

1. Pending the appeal, the applicant accused herein preferred this application for suspension of sentence and grant of bail vide section 389 of the Code of Criminal Procedure.

2. Posing exclusion to the judgment and order dated 30/09/2024 passed by learned Judicial Magistrate First Class, Ghatanji (Court No.2) in Sum. Cril. Case No.430/2019, the accused herein has preferred this appeal. The learned trial Court convicted the accused for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to suffer simple imprisonment for period of 03 month and to pay compensation of Rs.1,47,047/- to the complainant within 30 days, in default to suffer S.I. for one month. According to appellant the appeal is admitted. It will take time for its disposal in accordance with the law. He has hope of success in the appeal. The accused is ready to abide 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. Scanned entire record minutely. I have pore over certified copy of impugned judgment dated 30/09/2024 keenly. Admittedly, the offence for which accused is convicted is bailable in nature. It seems the accused is on bail through out the trial. The accused is resident of Ghatanji, District Yavatmal. He is having his roots in the same city. Apparently there is no reason to infer that, he would be absconded if released upon bail. He is sentenced to imprisonment for a term not exceeding three years. Thus, I believe the appellant accused has made out case for suspension of

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sentence viz a viz bail. At the moment, an epochal point needs due deliberation is as in regards with deposit of certain sum out of the compensation pending the appeal. It is desirable and it is mandatory to impose such condition upon the appellant before suspension of sentence. Considering all peculiarities, to sub-serve justice, I pass following order.

ORDER

1. Application is allowed.
2. The execution of sentence imposed upon appellant vide judgment and order dated 30/09/2024 passed in Sum. Cri. Case No.430/2019 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 solvent S.B of Rs.75,000/-.
 - (ii) The accused/appellant shall deposit sum of 20% of the compensation amount of Rs.1,47,047/- vide section 148 of the Negotiable Instruments Act, out of the compensation awarded by the trial Court, within sixty days from the date of this order.
 - (iii) Call Record and Proceeding of Sum. Cril. Case No.430/2019.
 - (iv) Inform learned Trial Court accordingly.

Date : 18/11/2024.

(Amit Anant Laulkar)
Additional Sessions Judge,
Yavatmal.