



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO.5 OF 2025

Iqrar Ahmad Khan Tamiz Khan
Vs.
Rashid Patel Rafique Patel

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. D. Hajare, Counsel for the applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 15/01/2025

1. Heard.
2. **Admit.**
3. By this application, the applicant is seeking suspension of sentence and releasing him on bail. The applicant is the original accused in Summary Criminal Case No.2310/2015 wherein he is convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced to suffer simple imprisonment for two years and to pay compensation Rs.23,90,000/- and in default of compensation amount, to suffer simple imprisonment for a period of six months. It is further directed that the applicant shall pay interest @ 9% p.a. on cheque amount of Rs.11,95,000/- from the date of issuance till its realization of the cheque amount. The said judgment and order of conviction was challenged

before the learned Additional Sessions Judge Court No.1, Akot along with the application for suspension of sentence. The same was rejected and therefore, this revision application.

4. Heard learned Counsel for the applicant who submitted that the learned trial Court has not considered that presumption is rebutted by the present applicant however, the learned trial Court has convicted the applicant without appreciating the evidence. He has pointed out that the punishment imposed is of a limited period. The appeal would take its own time for its final decision which is not considered by the Appellate Court and the application for suspension of sentence is rejected. He further submitted that the applicant is 65 years old and if he is sent behind bars, his health will deteriorate. For all above these grounds, the execution of the sentence be suspended and the applicant be released on bail.

5. I have perused the impugned judgment as well as the order of the learned Sessions Judge. The application for suspension of sentence is rejected merely on the ground that during the pendency of the trial on the day of judgment, the applicant remained absent before the trial Court and therefore, conviction warrant was issued. The applicant was absconding and not surrendered before the Court and therefore, the application was rejected.

6. Considering there is a limited period punishment imposed, moreover, the applicant has

also shown his willingness to deposit 20% of the amount of the compensation and considering that he is aged about 65 years, moreover, he has pointed out from the impugned judgment that he has many arguable points in the present revision application. The prayer for suspension of sentence deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The execution of the sentence be suspended on the condition that the applicant shall deposit 20% of the compensation amount within one month.

(ii) On depositing the said amount, the execution and operation of the sentence is hereby suspended till disposal of the appeal.

(iii) If the applicant fails to deposit the amount within one month, the order passed suspending the sentence deserves to be cancelled.

(iv) The applicant shall be released on bail on executing PR Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

7. Issue notice to the non-applicant, returnable after **four weeks**.

(URMILA JOSHI-PHALKE, J.)