

MHCC020057702023



IN THE COURT OF SESSIONS FOR GREATER BOMBAY
AT BOMBAY

ORDER BELOW APPLICATION EXHIBIT-2

IN
CRI. APPEAL NO.269 OF 2023
IN
C.C. NO.170/SS/2016

Anand Oberoi]
Having his office at: 603 A, Shakti,]
'A' Wing, Kelyar Complex, Yari Road,]
Andheri (West), Mumbai – 400 061.]
And also address at:
511, 5th Floor, Shalimar Morya Park,]
New Link Road, Andheri (West),]
Mumbai – 400 053.]
And also address at:
30/E, Laxmi Vijay Building, Laxmi]
Industrial Estate, New Link Road,]
Andheri (West), Mumbai – 400 053.] Applicant.

Versus

1. Jawaharlal Lachmandas Agicha]
Age: 60 years, Having his office at:]
C/o. Laxmandas & Co., 99 Reay]
Road, Near Ghorupdev Temple,]
Mumbai – 400 033.]
2. The State of Maharashtra] Respondents.

Appearance:

Ld. Adv. Mr. J.K. Shah for the Applicant/Orig. Accused.
Ld. Adv. Mr. H.H. Nagi for Respondent No.1/Orig. Complainant.
Ld. APP Mr. S.S. Panjwani for Respondent No.2/State.

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**CORAM: H.H. THE ADDL. SESSIONS JUDGE
SHRI R.N. ROKADE
(CR NO.54)**

DATE : 8th June, 2023.

ORAL ORDER

(Dictated and pronounced in open Court)

This is an application filed on behalf of the appellant for extension of time to deposit 20% amount of the total fine towards suspension of sentence.

The material averments in the application are as under:

2. On 17.04.2023, the appellant was directed to deposit 20% amount of the total fine in the trial Court within 60 days from the date of order towards suspension of sentence. The appellant is suffering from cancer and under medical treatment for the same. Due to his medical condition, he could not arrange 20% amount of the total fine. Therefore, he has prayed for extension of time to deposit 20% amount of the total fine in the Court.

3. Respondent no.1 resisted the application by filing say on the leaf of the application itself.

4. Heard the ld. Advocate for the appellant and ld. Advocate for respondent no.1. Perused the application and say.

5. At the outset, the ld. Advocate for the appellant urged with a degree of vehemence that the appellant is suffering from cancer and under medical treatment for the same. Due to his medical condition, he could not deposit 20% amount of the total fine within 60 days as per direction of the Court. He strenuously submitted that there is genuine difficulty to deposit the said amount. Therefore, he has

prayed for extension of time.

6. In opposition to this, the ld. Advocate for respondent no.1 submitted that no any sufficient cause is shown for extension of time. The appellant has not placed on record any document pertaining to his medical treatment. Therefore, he has prayed for rejection of the application.

7. At this juncture, recourse to Section 148 of the NI Act would be apposite.

“148(1). Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court;

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 143A.

(2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that, if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so

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released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant”.

8. In the light of the aforesaid provision, reverting to the facts of the case, it is the specific contention of the appellant that he is suffering from cancer and under medical treatment for the same. It is pertinent to note that respondent no.1 has not seriously challenged the said fact. Having regard to the fact that the appellant is suffering from cancer and under medical treatment for the same, I am of the considered view that he has shown sufficient cause for extension of time. Therefore, I am inclined to pass the following order:

ORDER

- (1) Application at Exhibit-2 in Cri. Appeal No.269/2023 is hereby allowed.
- (2) The appellant is permitted to deposit 20% amount of the total fine in this Court towards suspension of sentence on or before 15.07.2023.



Date: 08.06.2023.

**(R.N. ROKADE)
Addl. Sessions Judge
Court Room No.54, Gr. Bombay.**

Dictated on : 08.06.2023
Transcribed on : 08.06.2023
Signed by HHJ on : 08.06.2023

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”		
UPLOAD DATE	TIME	NAME OF STENOGRAPHER
08.06.2023	1.19 p.m.	Bharat Kashinath Gaikwad
Name of the Hon'ble Judge		SHRI R.N. ROKADE Addl. Sessions Judge Court Room No.54, Gr. Bombay.
Date of Pronouncement of Judgment/ Order		08.06.2023
Judgment/order signed by P.O. on		08.06.2023
Judgment/order uploaded on		08.06.2023