

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

DISTRICT : BEED

**901 CRIMINAL APPLICATION NO. 2023 OF 2017
WITH
CRIMINAL APPLICATION NO. 4864 OF 2017
IN
CRIMINAL APPLICATION NO. 2023 OF 2017**

AMBAJOGAI PEOPLE CO-COPERATIVE BANK
LTD., AMBAJOGAI

VERSUS

SHRI. MAULI BUILDERS & ORS.

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Mr. T.G.Gaikwad, Advocate for Applicant.

Mr. V.B.Mantri, Advocate for R – 1.

Mr. S.Y.Mahajan, A.P.P. for R – 2 - State.

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CORAM : V.L.ACHLIYA, J.

DATE : 10th NOVEMBER, 2017

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ORAL ORDER :

1. The applicant/original complainant has moved this application seeking permission to withdraw the amount of Rs. 10 Lakhs deposited by respondent No.

2/accused on 18/04/2013 as a condition for release of applicant on bail. Since the notice is not served, the applicant seeks permission to issue notice by way of paper publication.

2. During the course of hearing, learned counsel submits that the complaint filed by the applicant u/s 138 of Negotiable Instruments Act [for short, 'N.I.Act'] came to be decided vide Judgment and Order on 15/07/2014 and respondent No. 1/accused is convicted for the offence punishable u/s 138 of N.I.Act. As against conviction, the respondent No. 1 has preferred Appeal. The appellate Court has suspended the execution of sentence subject to deposit of Rs. 37 Lakhs. The Appeal is now pending before the appellate Court.

3. Since the deposit is made as a condition precedent for release on bail, the applicant/complainant is not entitled to withdraw the amount. The amount can be withdrawn either by accused or same can be adjusted towards fine/compensation if any payable by accused as per appropriate order to be passed by appellate Court, while deciding the Appeal. Hence, the application moved seeking withdrawal of amount as well as service of notice

to respondent No. 1 by way of paper publication are rejected.

[V.L.ACHLIYA, J.]

KNP/Cr. Apln. 2023.2017