

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION No. 268 OF 2018
IN
CRIMINAL APPLICATION No. 1267 OF 2017**

Kuresh Taherbhai Rajkotwala

...Applicant

Vs.

UCO Bank and Anr.

...Respondents

Mr. Kishor Bhatia for Applicant

Mr. Kunal Chheda i/b. M.V. Kini and Co. for Respondent No.1

Mr. Y.Y. Dabke -APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: MARCH 22, 2018

P.C.

1. The Applicant accused was convicted by the Trial Court for an offence punishable under Section 138 of the Negotiable Instrument Act. The Appellate Court against the judgment of conviction, directed Applicant to deposit Rs.1.20 crore, of which the modification was granted by this Court by permitting the Applicant to deposit an amount of Rs.60 lacs i.e. 20% of the amount of compensation. The said amount should have been deposited by the present Applicant accused within eight weeks from the date of order i.e. dated 11th January, 2018. Having failed to comply with the said order, Applicant

approached this Court with a prayer for extension time to deposit the amount.

2. The prayer is vehemently opposed by the Learned Counsel for the Complainant. According to him, this Court has already shown indulgence in favour of the Applicant.

3. During the last hearing, the learned counsel upon instructions, made a categorical statement that he is in a position to deposit an amount Rs.10,00,000/-, if so permitted by this Court. So as to test the bonafides of the Accused, the matter is placed today. During hearing when the learned counsel for the Applicant submits that he could arrange for Rs.5,00,000/- only. He further submits that two weeks' extension may be granted.

4. The aforesaid approach on the part of the Applicant-Accused is nothing but playing hide and sick with the Court as he has made a specific statement so as to show his bonafide that he will deposit Rs.10,00,000/- in this Court today. Though the learned counsel for the Applicant tried to give an excuse by saying that he is ready to deposit an amount of Rs.10,00,000/- but the bank has permitted withdrawal of only Rs.5,00,000/-. The Applicant, by demand draft, could have withdrawn the said amount of Rs.10,00,000/-, which he has failed to. The conduct of the Applicant of making incorrect statement before the Court, in the strong word is 'deprecated'.

5. Hence, no case is made out for grant of extension. The Applications are rejected. The Appellant Court is free to take the Applicant in custody.

[NITIN W. SAMBRE, J.]