

Vidya Amin.

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

WRIT PETITION No. 5094 OF 2018

Mrs. Musarrat Jahan Jaffer Khan	...	Petitioner
vs.		
Mrs. Farida Bharat Sewani & Anr.	...	Respondents

Mr. Syed Shabana, Advocate for the petitioner.
Mrs. Veera Shinde, APP for respondent No. 2/State.
Mr. S.R. Soni, Advocate for respondent No. 1.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 28th November, 2018**

P.C. :

Rule. Rule made returnable forthwith. By consent, the Writ Petition is heard finally and decided at the stage of admission.

2. In this Writ Petition, by invoking the writ jurisdiction under Article 227 of the Constitution of India and under section 482 of Cr. P.C. the petitioner has challenged the order dated 17th October, 2018 passed by the learned Additional Sessions Judge-5, Thane wherein the learned Sessions Judge has directed the petitioner/accused, who is convicted under section 138 of Negotiable Instruments Act, to deposit Rs.12,00,000/- within one month from the date of order. It is further prayed that the petitioner

be allowed to continue cash bail of Rs.25,000/- instead of furnishing local solvent surety in the like amount. The due cheque amount for which the petitioner is prosecuted is Rs.14,85,000/-. The petitioner is directed to pay Rs.17,00,000/- to the complainant as compensation by the learned Judicial Magistrate First Class while convicting her by order dated 10th July, 2018.

3. The learned counsel for the petitioner submitted that the petitioner seeks modification of the order of payment of Rs.12,00,000/-. She submitted that as per Section 138 of Negotiable Instruments Act, 20% of the amount can be asked to pay. She further submitted that the petitioner/accused is the mother of three daughters.

4. The learned counsel for respondent No. 1/original complainant submitted that though he opposed the Petition, he submits to the order of the Court, however, respondent No. 1/complainant be allowed to withdraw the said amount.

5. Heard the learned counsel for the parties. In view of the submissions, following order is passed:

- (i) 20% of the amount of Rs.17,00,000/- comes to Rs.3,40,000/-, which is to be deposited instead of Rs.12,00,000/- within two weeks from today;
- (ii) The petitioner shall be released on bail on furnishing P.R. Bond and Security Bond of Rs.25,000/- with one or two local sureties;
- (iii) The petitioner shall not leave India without the permission of the Court.

6. Writ Petition is partly allowed.

(MRIDULA BHATKAR, J.)