

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

CRIMINAL APPLICATION NO. 253 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 363 OF 2019

BHASKAR S/O BAPURAO GONGE
VERSUS
AKAR CONSTRUCTION THROUGH ITS PROPRIETOR, ABDUL MATIN
S/O ABDUL MAUJUD

...
Advocate for the Applicant : Shri R. U. Gavhane
APP for the Respondent : Shri R. P. Mote

...
CORAM : M. G. SEWLIKAR, J.

DATED : 21-02-2022

PER COURT :-

1. The respondent herein has deposited the amount of Rs. 7,16,000/- as directed by this Court dated 09th December, 2021. The applicant has filed this application for withdrawal of this amount.

2. Learned counsel Shri R. P. Mote for the respondent objects to the withdrawal of the amount. He submits that if amount is allowed to be withdrawn, the applicant be directed to furnish bank guarantee.

3. In terms of Section 148 of the Negotiable Instruments Act the appellate Court can direct the accused to deposit minimum 20 % of the amount of fine or compensation awarded by the

trial Court. As per Section 148(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. The proviso states that in case the respondent accused is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released with interest at the bank rate prevalent at that time, within sixty days from the date of the order.

4. In view of this, I deem it appropriate to allow the applicant to withdraw 50 % of amount of Rs. 7,16,000/-, which comes to Rs. 3,58,000/-. If the respondent succeeds in the revision filed by him, the applicant shall deposit the entire amount of Rs. 3,58,000/- forthwith. Registrar (Judicial) to take undertaking for releasing the amount in terms of Section 148 of the Negotiable Instruments Act.

[M.G. SEWLIKAR, J.]

shp/-