

(1)

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

**946 CRIMINAL APPLICATION NO. 1402 OF 2022
IN REVISION APPLICATION NO.170 OF 2021
WITH REVN/170/2021**

**ISRAIL @ ISMAIL MOHD. IBRAHIM
VERSUS
NAWAB SHAIKH GULAM RASUL AND ANOTHER**

Mr. A. D. Sonar, Advocate for Applicant
Mr G. R. Syed, Advocate holding for Mr. P. B. Pawar, Advocate for
Respondent No.1
Mr. S. B. Narwade, APP for Respondent No.2

CORAM : S. G. MEHARE, J.

DATE : 12th July, 2022

PC.

1. The applicant/original complainant has filed this application for permission to withdraw the amount of Rs.1,25,000/- deposited by the revision petitioner as per the Court order.
2. The learned counsel for the respondent No.1/revision petitioner has opposed the application contending that the applicant has a good case on merit. The applicant is not entitled to withdraw the amount. However, if this Court allows the applicant to withdraw the amount, some undertaking may be directed.

(2)

3. Perused the application. The conviction of respondent No.2 is confirmed by the first Appellate Court. The compensation amount was directed to be paid by the trial Court as well as Appellate Court towards the dishonour of the cheque. *Prima facie* it has been proved that the cheque in question was issued towards the discharge of debt / liability.

4. Considering the facts of the case and observations recorded by the trial Court and the Appellate Court, it would be appropriate to allow the applicant to withdraw the amount on certain conditions. Hence, the following order -

- i) The application is allowed.
- ii) The applicant is permitted to withdraw the amount of Rs.1,25,000/- with accrued interest deposited by the present respondent No.1 in this court, on furnishing undertaking that in case of reversal of the impugned Judgment, he would re-deposit the amount with accrued interest, within two months from the date of order, if any adverse order is passed by this Court.

5. List the Revision Application on 02.08.2022.

(S. G. MEHARE, J.)

amj