

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

**CRIMINAL REVISION APPLICATION NO. 246 OF 2022
WITH
INTERIM APPLICATION NO. 2031 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 246 OF 2022**

Dhawal Shah ...Applicant
Versus
State Of Maharashtra And Anr. ...Respondents

**WITH
CRIMINAL REVISION APPLICATION NO. 250 OF 2022
WITH
INTERIM APPLICATION NO. 2035 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 250 OF 2022**

Dhawal Shah ...Applicant
Versus
State Of Maharashtra And Anr. ...Respondents

**WITH
CRIMINAL REVISION APPLICATION NO. 248 OF 2022
WITH
INTERIM APPLICATION NO. 2033 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 248 OF 2022**

Dhawal Shah ...Applicant
Versus
State Of Maharashtra And Anr. ...Respondents

**WITH
CRIMINAL REVISION APPLICATION NO. 247 OF 2022
WITH
INTERIM APPLICATION NO. 2032 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 247 OF 2022**

Dhawal Shah ...Applicant
Versus
State Of Maharashtra And Anr. ...Respondents

WITH
CRIMINAL REVISION APPLICATION NO. 249 OF 2022
WITH
INTERIM APPLICATION NO. 2034 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 249 OF 2022

Dhawal Shah ...Applicant
Versus
State Of Maharashtra And Anr. ...Respondents

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Mr. Aniket Nikam i/by Mr. Vivek Arote, Advocate for the Applicant.

Mr. Kishor Bhatia i/by Ms. Falguni S. Thakkar, Advocate for Respondent
No. 2.

Mr. S. R. Agarkar, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.
DATE : 5th JULY, 2022.

PER COURT:

1. These Revision applications are preferred challenging the judgment of conviction passed by the trial Court for offence under Section 138 of Negotiable Instruments Act, 1881 and judgments dismissing appeals passed by Appellate Court and confirming all the judgments by the Appellate Court. The revision Applicant has been convicted for offence punishable under Section 138 of Negotiable Instruments Act. The Interim Applications are preferred

for suspension of sentence and grant of bail.

2. The Revision applicant has been convicted in different complaints which are subject matter of these revision applications. In C.C. No.6170/SS/2015 the applicant is convicted vide judgment and order dated 1st September, 2018 and sentenced to suffer simple imprisonment of one year and to pay compensation of Rs.48,21,348/- with simple interest of 9% per annum. The appeal challenging the said judgment was dismissed by judgment and order dated 11th April, 2022. In C.C. No.6171/SS/2015 the applicant is convicted for offence under Section 138 of Negotiable Instruments Act, 1881 by judgment and order dated 1st September, 2018 and sentenced to suffer imprisonment of 3 months and to pay compensation of Rs.5,00,000/-. Criminal Appeal No.313 of 2021 was dismissed on 11th April, 2022. In C.C. No.6172/SS/2015 the Applicant was convicted and sentenced to suffer simple imprisonment for 3 months and to pay fine of Rs.5,00,000/-. Criminal Appeal No.314 of 2021 challenging the conviction was dismissed by judgment dated 11th April, 2022. In C.C. No.6173/SS/2015, the Applicant was convicted by judgment dated 1st September, 2018 and sentenced to suffer imprisonment of 9 months and to pay of Rs.15,69,768/-. Criminal Appeal No.312 of

2021 challenging the said judgment was dismissed by judgment dated 11th April, 2022. In C.C. No.6169/SS/2015 the Applicant is convicted by judgment dated 1st September, 2018 and sentenced to suffer simple imprisonment for 6 months and to pay compensation of Rs.3,12,876/-. Criminal Appeal 311 of 2021 challenging the said judgment is dismissed by judgment dated 11th April, 2022.

3. Learned counsel for the applicant and Respondent No.2 submitted that the parties have arrived at amicable settlement. The consent terms are executed between the parties. As per the consent terms the amount of Rs.4,00,000/- has been paid to Respondent No.2 on 4th July, 2022. The applicant has agreed to pay the sum of Rs.8,00,000/- on or before 5th September 2022 by RTGS in the account of Respondent No.2. The applicant has also agreed to allow the Respondent No.2 to withdraw the sum of Rs.7,70,400/- deposited by the applicant as security in the bail applications filed by applicant. The applicant has agreed to sign all necessary documents and issued letter of Authority to Respondent No.2 and cooperate in every manner required to recover the sum from the Court. It is also agreed that, on receipt of the entire settlement amount from the applicant, the Respondent No.2 shall not claim any amount towards the complaints filed before the Court of

learned Magistrate under Section 138 of Negotiable Instruments Act and Summary Suit in the Civil Court at Thane. He would withdraw all the proceedings. The parties have also agreed to withdraw all the allegations made against each other before any authority and shall refrain from filing any complaints in future in respect of the present claim and shall not demand in future any amount from each other.

4. Clause 6 of the consent terms referred to deposit the amount of Rs.12,00,000/- on or before 5th September, 2022. It is clarified that deposit amount of Rs.12,00,000/- stipulated in clauses 1 & 2 of consent terms indicating that Rs.4,00,000/- is already paid to the complainant and the balance amount of Rs.8,00,000/- is to be paid on or before 5th September, 2022. The consent terms are signed by both the parties. Both the parties are present in the Court. Consent terms is taken on record and marked as 'X' for identification.

5. Learned counsel for Respondent No.2 submits that since the balance amount of Rs.8,00,000/- is to be paid in future course of time, the revision application may be kept pending. However, Respondent No.2 may be permitted to withdraw the amount of Rs.7,70,400/- deposited before the Sessions Court.

6. In view of the aforesaid circumstances, I pass the following order :-

ORDER

- i. Criminal Revision Application Nos.246 of 2022, 250 of 2022, 248 of 2022, 247 of 2022 and 249 of 2022 are admitted;
- ii. Interim Application Nos.2031 of 2022, 2032 of 2022, 2033 of 2022, 2034 of 2022 & 2035 of 2022 are allowed and disposed of;
- iii. The sentence of imprisonment awarded by the trial Court and confirmed by the appellate Court in each case is suspended and the applicant is directed to be released on bail on executing PR. Bond in the sum of Rs.15,000/- on cash bail in each case with one or more sureties in the like amount;
- iv. Respondent No.2 is permitted to withdraw the amount of Rs.7,70,400/- deposited before the Sessions Court;
- v. The Revision application is kept pending since the amount of Rs.8,00,000/- is to be paid on or before 5th September, 2022. On payment of entire amount, the parties are at liberty to move before this Court to prefer application for cancellation of bail;
- vi. No further coercive action initiated against the present applicant in subject matter of this proceedings;
- vii. Conviction warrant if issued, the matters, is stayed till further orders;

viii. Stand over to 6th September, 2022.

(PRAKASH D. NAIK, J.)