

VRJ

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

**CRIMINAL REVISION APPLICATION NO.267 OF 2021
WITH
INTERIM APPLICATION NO.3079 OF 2021
IN
CRIMINAL REVISION APPLICATION NO.267 OF 2021**

Hemant Vijay Dugaje ... Applicant
V/s.
Gokul Ramdas Pingale & Anr. ... Respondents

**WITH
INTERIM APPLICATION NO.2411 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.267 OF 2021**

Gokul Ramdas Pingale ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Pandit Kasar for the applicant.
Mr. A.R. Patil, APP for the State.
Mr. S.P. Dighe for the applicant in IA/2411/2022.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 9, 2022

P.C.:

Interim application 2411 of 2022.

1. The applicant is complainant in a proceeding under section 138 of the Negotiable Instruments Act, 1881. Both the Courts below have convicted and sentenced the revision applicant. The learned Magistrate directed the revision applicant to pay

compensation of Rs.17,50,000/- (Rupees Seventeen Lakh Fifty Thousand Only) which has been confirmed by the learned Additional Sessions Judge, Nashik. This Court by order dated 23rd March, 2022 suspended the sentence, subject to deposit of Rs.14,00,000/- (Rupees Fourteen Lakh Only).

2. The complainant has, therefore, filed present application seeking withdrawal of the amount.

3. Learned advocate for the accused strenuously opposed the request contending that once the amount is allowed to be withdrawn, nothing remains to be decided in the revision application.

4. Having considered the submission made on behalf of the both sides, in my opinion, the rights of the accused can be taken care of by directing the applicant to furnish undertaking that in case the applicant fails in the revision, the complainant will reimburse the accused entire amount withdrawn.

5. Considering the scheme of section 138 of the Negotiable Instruments Act, 1881 and the revisions applicant having been convicted by both the Courts below, in my opinion, the applicant has made out a case for grant of permission to withdraw the amount of Rs.14,00,000/- (Rupees Fourteen Lakh Only). Hence, following order:

a) The applicant is permitted to withdraw an amount of Rs.14,00,000/- (Rupees Fourteen Lakh Only) deposited in this Court along with accrued interest thereon, subject to filing undertaking within four (4) weeks from today that in case the

applicant/complainant fails in the revisions application, he will reimburse the accused entire amount withdrawn along with interest at the prevalent bank rate.

6. The application stand disposed of in above terms. No Costs.

7. At this stage, the learned advocate for the accused seeks stay of the order. Considering the nature of the order and rights affected, the request for stay is rejected.

Interim Application No.3079 of 2021.

1. The applicant has deposited an amount of Rs.14,00,000/- (Rupees Fourteen Lakh Only). The applicant has been directed to pay compensation of Rs.17,50,000/- (Rupees Seventeen Lakh Fifty Thousand Only) by the Courts below.

2. This Court by order dated 22nd December, 2021 had suspended the sentence on depositing an amount of Rs.14,00,000/- (Rupees Fourteen Lakh Only) which has been complied with.

3. In that view of the matter, the order passed on 22nd December, 2021 shall remain in force till the disposal of revision application.

4. The interim application stand disposed of.

Criminal Revision Application NO.267 of 2021:

1. **Rule.**

(AMIT BORKAR, J.)