

VRJ

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

**INTERIM APPLICATION NO.3228 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.65 OF 2022**

Naishaja P. Vyas ... Applicant
V/s.
Bharat Bhogilal Patel & Anr. ... Respondents

Mr. Rama Somani i/by A.K. Apte for the applicants.

Mr. Meghdeep M. Oak i/by Mr. Sharian Mukharjee for
the respondent.

Mr. R.M. Pethe, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 25, 2022

P.C.:

- 1.** The applicant is complainant in a proceeding under section 138 of the Negotiable Instruments Act, 1881. The accused being convicted by the learned Magistrate and confirmed by the learned Sessions Court has filed present revision application.
- 2.** The learned Magistrate convicted the accused and directed him to undergo one (1) month imprisonment and fine of Rs.2,20,000/-.
- 3.** The accused has deposited an amount of Rs.44,000/- in the Sessions Court. He has further deposited an amount of Rs.1,10,000/- *in the Sessions Court*. The applicant being complainant as therefore filed present application for withdrawal

of the said amounts.

4. Taking into consideration the scheme of section 138 of the Negotiable Instruments Act, 1881, the accused having been convicted by both the Court below and the applicant being complainant, the complainant needs to be permitted to withdraw the amount.

5. Hence, the following order:

(i) The applicant is permitted to withdraw an amount of Rs.44,000/- deposited with the learned Sessions Court and Rs.1,10,000/- deposited *in the Sessions Court* along with accrued interest, subject to filing of undertaking within four (4) weeks from today stating that in case the revision application is decided against the applicant, the applicant shall reimburse entire amount withdrawn along with interest at the prevalent bank rate to the accused.

6. Interim Application No.3228 of 2022 is disposed of in above terms. No costs.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 8th December 2022. The corrections in paragraphs 3 and 5 are shown in italicize.