

AGK

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

**INTERIM APPLICATION NO.3609 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.68 OF 2021
WITH
INTERIM APPLICATION NO.3625 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.69 OF 2021
WITH
INTERIM APPLICATION NO.3623 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.67 OF 2021
WITH
INTERIM APPLICATION NO.3645 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.51 OF 2021
WITH
INTERIM APPLICATION NO.3622 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.175 OF 2021
WITH
INTERIM APPLICATION NO.3673 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.66 OF 2021**

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Kapaleshwar Rice Mill,
through Sagar Vijay Korde

... Applicant

V/s.

Usha Vilas Gade & Anr.

... Respondents

Ms. Vandana M. Bail i/by Mr. Amey Deshpande for the
applicant.

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

Mr. Sunil B. Sali for respondent no.2.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 11, 2022

P.C.:

1. In all six (6) interim applications, the applicant is original complainant in a proceeding under section 138 of the Negotiable Instruments Act, 1881. The accused having been convicted by the learned Magistrate and confirmed by the learned Sessions Judge, has filed criminal revision applications in this Court. While entertaining the criminal revision applications, this Court protected the accused on depositing an amount of 20% of the cheque amount as directed by the learned Magistrate.

2. The complainant has, therefore, filed present interim applications seeking withdrawal of the entire amount deposited by the accused. Learned advocate for the accused objected for grant of applications on the ground that the rights of the accused needs to be secured.

3. Taking into consideration the scheme of section 138 of the Negotiable Instruments Act, 1881 and the fact that the accused has been convicted by the learned Magistrate and confirmed by the learned Sessions Court, in my opinion, it would be in the interest of justice to permit the complainant to withdraw the entire amount deposited along with accrued interest, subject to filing of undertaking. Hence, following order:

The applicant is permitted to withdraw the entire amount deposited by the accused along with accrued interest thereon,

subject to filing undertaking within four (4) weeks from today that in case the criminal revision applications are decided against the complainant, he will reimburse the accused entire amount withdrawn along with interest at the prevalent bank rate till the date of payment of the said amount.

4. All six (6) interim applications are disposed of in above terms. No costs.

(AMIT BORKAR, J.)