

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

**CRIMINAL INTERIM APPLICATION NO.298 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.306 OF 2018**

M/s. Ajgaivi Financial Consultancy
Services Pvt. Ltd., Through its Managing
Director, Naveen. ...Applicant
V/s.
The State of Maharashtra & Ors. ...Respondents

Mr. Hrishikesh Mundargi i/by Mr. Hardik Vyas for Applicant.
Mr. A. R. Patil, APP for Respondent No.1 (State).
Mr. Ghanashyam Upadhyay & Mr. Aakash Mishra i/by Law Juris
for Respondent No.2.

CORAM : AMIT BORKAR, J.
DATE : NOVEMBER 21, 2022

P.C.:

1. Matter is mentioned. Not on board, taken on board.
2. The Application is by complainant under Section 138 of Negotiable Instruments Act, 1881. The original accused has been convicted by the learned Magistrate which has been confirmed by the learned Sessions Judge. The accused was directed to deposit fine of Rs.36,00,000/- by the learned Magistrate.
3. The accused has filed present Revision Application. This Court by order dated 8th June 2018, suspended the conviction

on deposit of amount Rs.7,20,000/-. The complainant has therefore filed the present Application seeking withdrawal of amount of Rs.7,20,000/-. Learned advocate for the accused has opposed the Application stating that the judgment and order passed by the Court below are contrary to the well settled principles of law and in breach of mandatory procedure.

4. Having considered the submissions made on behalf of both sides and considering the fact that applicant is complainant in the proceedings under Section 138 of the Negotiable Instruments Act, 1881 and considering the scheme of Negotiable Instruments Act, in my opinion, the applicant needs to be permitted to withdraw the amount deposited by the accused. Hence, the following order is passed:-

- (i). Applicant is permitted to withdraw an amount of Rs.7,20,000/- alongwith accrued interest thereon. Subject to furnishing undertaking within four (4) weeks from today stating that in case the Revision is decided against the present applicant. The applicant shall reimburse entire withdrawn amount to the accused alongwith interest at prevalent bank rate.
- (ii). Interim Application is disposed of in the above terms. No costs.

(AMIT BORKAR, J.)