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

**INTERIM APPLICATION NO. 4064 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.336 OF 2016**

Veena Jamnadas Lalwani ... Applicant
V/s.
Hynoup Food & Oil Industries Ltd & Ors. ... Respondents

Mr. Hrishikesh Mundargi a/w Ms. Paavani Chadha for
the applicant.

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

Mr. Ashok K. Warwari for applicant in REVN
No.336/2016.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 22, 2022

P.C.:

1. The applicant who has filed present application is the legal representative of the original complainant in a proceeding under Section 138 of the Negotiable Instrument Act, 1881 seeking withdrawal part amount of compensation deposited by the accused/applicant in the criminal revision application in pursuance of order of suspension of sentence imposed by the Courts below.
2. Learned Sessions Judge, Greater Mumbai by order dated 18th April, 2016 confirmed the order of conviction and imposition of sentence by the learned Magistrate by order dated 24th June, 2012.
3. This Court by order dated 14th June, 2016 directed the accused to deposit of amount of Rs.31,00,000/-(Thirty One Lakh

Only) in this Court in addition to the order of deposit of Rs.19,00,000/- (Nineteen Lakh Only) by the learned Session Judge.

4. During the pendency of the present proceedings, original complainant (husband of the applicant) passed away on 3rd July, 2019. The applicant, therefore, filed application to bring herself on record as a legal representative of original complainant. In support of her claim of being legal representative, copies of affidavits were filed by daughter and son of the complainant to support her contention that she is the legal representative of the original complainant.

5. The applicant, therefore, seeks withdrawal of amount of Rs.50,00,000/- (Fifty Lakh Only) as she is the legal representative of the original complainant.

6. Learned advocate for the accused opposed the application contending that considering advanced age of the applicant, in case the revision is decided against the complainant/applicant, the amount withdrawn would not be secured. He submitted that on merits the applicant has sanguine hopes of success. He submitted that considering the quantum of the amount, interests of the complainant and accused can be balanced by permitting partial withdrawal of the amount of Rs.50,00,000/- (Fifty Lakh Only) deposited by the accused.

7. Learned advocate for the applicant, on instructions from the son of the applicant (Bharat Manoj Lalwani) who is present in Court, states that the apprehension expressed by the accused can

be taken care of by filing affidavit of son (Bharat Manoj Lalwani) in this Court stating that in case the decision in the criminal revision application is adverse to the interest of original complainant, he will reimburse the amount withdrawn along with interest at the prevalent bank rate.

8. In view of the statement made by the son of the applicant, following order is passed:

a) The applicant is permitted to withdraw an amount of Rs.19,00,000/- (Nineteen Lakh Only) along with accrued interest thereon deposited with the learned Sessions Court and is permitted to withdraw Rs.31,00,000/- (Thirty One Lakh Only) along with accrued interest, subject to filing an undertaking of the applicant within Four (4) weeks from today stating that in case the Criminal Revision Application is decided against the applicant, she will reimburse the complainant entire amount withdrawn along with interest at prevailing bank rate;

b) Additionally, the son (Bharat Manoj Lalwani) shall file affidavit in this Court within Four (4) weeks from today stating that in case the applicant is not in a position to keep the undertaking due to any reason, he will reimburse to the accused amount withdrawn along with interest at prevalent bank rate.

9. In addition, the learned advocate for the accused submitted written statement.

10. The Interim Application stands disposed of in the above

terms. No costs.

11. At this stage the learned advocate for the accused sought stay to the order. Considering the facts situation of the matter, the oral application for stay stands rejected.

(AMIT BORKAR, J.)