

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

**INTERIM APPLICATION NO. 689 OF 2019
IN
CRIMINAL APPLICATION NO. 616 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.648 OF 2018**

M/s. Rajdevendra Constructions Private Limited ...Applicant
Versus
M/s. D.G. Patil And Company Proprietorship
Through Its Proprietor Devidas Gorakh Patil
And Anr. ...Respondents

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Mr. Kunal D. Ambulkar, Advocate for the Applicant in Interim Application.

Mr. Ravi Shinde a/w Mr. Sujay H. Gangal, Advocate for Respondent/Revision Applicant.

Mr. A. R. Patil, APP for the Respondent – State.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 12th SEPTEMBER, 2022.**

PER COURT:

1. These interim applications are preferred in Criminal Revision Application Nos.648 of 2018 and 647 of 2018. The revision applicant/original accused was convicted for the offences punishable under Sections 138 of Negotiable Instruments Act, 1881 and sentenced to suffer imprisonment and fine. The original accused/revision applicant died during the pendency of revision application. His legal heirs are brought on record. The revision applicant had deposited the amount of Rs.12,50,000/- in connection with the proceedings which are subject matter of revision application No.648 of 2018. The revision applicant had deposited Rs.4,20,000/- in connection with the proceedings which are subject matter of Criminal Revision Application No.647 of 2018.

2. The complainant has preferred these interim applications for withdrawal of the amount deposited by the original accused. It is submitted by the learned counsel for the applicant that the proceedings are pending since long. Cheques were dishonoured in the year 2001.

3. Learned counsel for the legal heirs of revision applicant/accused, submitted that the applicant/complainant may be directed to execute bank guarantee in the sum of the amount withdrawn by

him and to give an undertaking that the withdrawal of amount is subject to the outcome of the revision applications.

4. The complainant can be directed to file undertaking that, the withdrawal is subject to outcome of revision applications and in the event judgment of conviction is reversed, he would deposit the amount withdrawn by him in this Court.

5. Considering the submissions of both sides, I pass the following order :

ORDER

i. Interim Application Nos. 689 of 2019 and 690 of 2019 are allowed;

ii. The complainant is permitted to withdraw the amount of Rs.12,50,000/- and 4,20,000/- deposited by revision applicant before the Court of Sessions at Kolhapur in Criminal Appeal No.8 of 2010 and Criminal Appeal No.7 of 2010 respectively;

iii. The applicant/complainant shall file undertaking before this Court that the withdrawal of amount shall be subject to outcome of the revision applications and in the event the conviction is set aside, complainant would deposit the withdrawn amount in this Court;

iv. Interim Application Nos. 689 of 2019 and 690 of 2019 are disposed off.

(PRAKASH D. NAIK, J.)