

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

**INTERIM APPLICATION NO.4235 OF 2023  
IN  
INTERIM APPLICATION NO.2841 OF 2023  
IN  
CRIMINAL REVISION APPLICATION NO.302 OF 2022**

Khalid Ismail Hatodkar

.... Applicant

versus

State of Maharashtra & Anr.

.... Respondents

.....

- Mr. Manas N. Gawankar, Advocate for Applicant.
- Mr. Yogesh Y. Dabke, APP for the State/Respondent.
- Mr. Rakesh Bhatkar, Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.**

**DATE : 10<sup>th</sup> NOVEMBER, 2023**

**P.C. :**

1. This application is filed in Criminal Revision Application No.302 of 2022. Though the roster for Criminal Revisions is not before this Court, the learned Judge taking up these matters as per the roster had directed the Registry to place this matter before this Bench. Accordingly, the Registry has placed this matter before me and therefore I have heard the parties.

2. This application is preferred with different prayers. The first prayer is for recalling of order dated 17/08/2022 passed in Interim Application No.2841 of 2023. The second prayer is for restoring the order dated 01/08/2022 passed in Interim Application No.2523 of 2022 and the third prayer is for grant of four weeks to pay the remaining amount of compensation to the Respondent No.2.
3. Heard Mr. Manas N. Gawankar, learned counsel for the Applicant, Mr. Rakesh Bhatkar, learned counsel for the Respondent No.2 and Mr. Yogesh Y. Dabke, learned APP for the State.
4. The Applicant was the original accused in Summary Criminal Case No.192/2013 before the Judicial Magistrate First Class, Ratnagiri. At the end of the trial, the Applicant was convicted for commission of offence punishable u/s 138 of the Negotiable Instruments Act. The Revision Application mentions

that the Applicant was sentenced to suffer rigorous imprisonment for three months and to pay compensation of Rs.2,50,000/- within one month and in default to suffer simple imprisonment for one month. The Trial Court had passed that order on 15/02/2018. The Applicant preferred Criminal Appeal No.13 of 2018 before the Additional Sessions Judge, Ratnagiri. That order was dismissed on 29/06/2022. Thereafter, the Applicant preferred the present Revision Application No.302 of 2022. In that application, at the first instance, he had preferred Interim Application No.2523 of 2022. In that application, the order dated 01/08/2022 was passed by this Court (Coram : Prakash D. Naik, J.). It was observed that the Applicant was directed to pay compensation of Rs.2,50,000/-. In paragraph No.3 of that order it was recorded that, the learned Advocate for the Applicant, on instructions, had submitted that the Applicant, till then had parted with an amount of Rs.30,000/- to the complainant. It was further recorded that the Applicant would deposit the amount of Rs.50,000/- within a period of one week from the date of uploading of the said order dated 01/08/2022

and the balance amount within a period of four months from 01/08/2022. The statement was accepted as undertaking to the Court. On this undertaking, the Applicant was directed to be released on bail and the sentence imposed on him was suspended. This interim protection was granted till the next date of hearing.

5.           Thereafter, the complainant i.e. the Original Respondent No.2 in Criminal Revision Applicant No.302 of 2022 preferred Interim Application No.2841 of 2023 in Criminal Revision Application No.302 of 2022, making grievance that the Applicant/accused had not honoured his commitment. It was the case of the Respondent No.2 that the Applicant neither deposited Rs.50,000/- neither the balance amount. More than one year had passed from the date of the order i.e. 01/08/2022. Learned counsel for the Applicant/original accused did not have instructions. He submitted that the accused was not in touch with him and was not giving any instructions and therefore he did not make any submissions.

6. Considering that situation, the order of suspension of sentence and releasing the Applicant on bail was recalled and the Trial Court was directed to take steps to secure the presence of the accused. This order was passed on 17/08/2023.
7. Now a fresh application is made by the Applicant/accused with the aforementioned prayers.
8. Learned counsel for the Applicant invited my attention to Ex.D of this application. The said document is a copy of the receipt dated 11/08/2022 showing that the Applicant had deposited Rs.50,000/- before the Sessions Court at Ratnagiri. He submitted the first condition mentioned in the order dated 01/08/2022 stands satisfied. The compensation amount was for Rs.2,50,000/-, out of which Rs.30,000/- were already paid as mentioned in the order dated 01/08/2022. Subsequently, even Rs.50,000/- were paid. Therefore, the balance amount amount remained at Rs.1,70,000/-.

9. Learned counsel for the Applicant tried to raise the contention that even prior to the order dated 01/08/2022 Rs.85,000/- were paid and not Rs.30,000/- as mentioned in the order dated 01/08/2022. However, learned counsel for the Respondent No.2 seriously disputed this position. The order dated 01/08/2022 makes definite reference to a particular amount. It was recorded that at the time of passing of the order only Rs.30,000/- were paid. After that, the order was passed on 01/08/2022. The said statement recorded in that order was never disputed by the Applicant by preferring any application for correction of that figure. Therefore, at this stage, it is not possible to take a different view and record that the Applicant had deposited Rs.85,000/-. The fact remains that after the order dated 01/08/2022, pursuant to that order as of today, the balance amount is Rs.1,70,000/-.

10. Learned counsel for the Applicant states that as of today, as a result of the order dated 17/08/2023, a non-bailable

warrant is issued against the Applicant. Learned counsel for the Applicant on instructions makes a statement that the balance amount of Rs.1,70,000/- shall be paid within a period of two months from today. The statement is recorded as a solemn statement and undertaking before this Court. In this view of the matter, following order is passed :

### **ORDER**

- (i) The non-bailable warrant issued against the Applicant is stayed for a period of two months from today.
- (ii) The Applicant is at liberty to deposit Rs.1,70,000/- in the Court of Session at Ratnagiri within a period of two months from today.
- (iii) If the amount is deposited within two months, the warrant issued against the Applicant shall be cancelled by the Court issuing that warrant.
- (iv) The Criminal Revision Application No.302 of

2022 shall be listed before the Court taking up the Criminal Revision Applications on 10/01/2024 for further consideration.

- (v) With these directions it is not necessary to recall the order dated 17/08/2023.
- (vi) The present Interim Application is disposed of.
- (vii) The matter shall now be placed before the Court taking up Criminal Revision Applications.

**(SARANG V. KOTWAL, J.)**