



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

**INTERIM APPLICATION NO. 3019 OF 2023
IN
CRIMINAL REVISION APPLICATION NO. 138 OF 2022**

Dnyandev Dattatray Patil ... Applicant
Versus
Anil Dagadu Phale & Anr. ... Respondents

**WITH
CRIMINAL REVISION APPLICATION NO. 138 OF 2022
WITH
INTERIM APPLICATION NO. 1014 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 138 OF 2022**

Anil Dagadu Phale ... Applicant
Versus
Dnyandev Dattatray Patil & Anr. ... Respondents

Mr. Ketan A. Dhavle for the Applicant.
Mr. Santaram Anant Tarale for the Respondent No.1.
Mr. R. M. Pethe, APP for the Respondent No.2-State.

CORAM : R.N.LADDHA, J.

DATE : 19 December 2023

P.C.:

The applicant/original complainant has filed the Interim Application No.3019 of 2023 to withdraw the amount deposited by

respondent No.1/original accused in the Registry of District Court, Pune.

2. The learned Counsel for the applicant submitted that by judgment and order dated 10 October 2017, passed by the learned Judicial Magistrate First Class, Pune in Summary Criminal Case No. 409560 of 2015, respondent No.1 was convicted for the offence punishable u/s 138 of the Negotiable Instruments Act, 1881, and sentenced to suffer simple imprisonment for six months, and further directed to pay fine amount as compensation of Rs.7,00,000/-. This judgment and order stood confirmed in appeal bearing No.552 of 2017 filed by respondent No.1 before the learned Additional Sessions Judge, Pune vide judgment and order dated 22 February 2022. Aggrieved thereby, respondent No.1 filed the present Criminal Revision Application No.138 of 2022. The learned counsel states that during the pendency of the Revision Application before this Court, respondent No.1 has deposited the compensation amount before the Court of District Judge, Pune and prays for its withdrawal.

3. Learned Counsel for respondent No.1 opposed the applicant's prayer for withdrawal on the apprehension that the applicant may not deposit it back in the event of the above criminal revision application is successful. However, the apprehension of respondent No.1 can be taken care of by directing the applicant to give an undertaking to deposit the same amount if the criminal revision application is

successful. The learned counsel for the applicant, however, submitted that, the applicant is ready to give bank guarantee, and also the undertaking that he will deposit the withdrawal amount in the event of success of this revision application.

4. In view thereof, the applicant is permitted to withdraw the deposited amount from the Registry of this Court on submitting an undertaking that he will deposit the withdrawn amount if the present Criminal Revision Application is successful and further on furnishing the bank guarantee.

5. The Interim Application No.3019 of 2023 stands disposed of in the aforesaid terms.

6. The learned counsel for the parties jointly submitted that the amount as ordered by this Court vide order dated 30 March 2022 is already deposited, nothing survives in the Interim Application No.1014/2022. In view thereof, the Interim Application No.1014/2022 also stands disposed of.

7. Place the Criminal Revision Application No.138 of 2022 on the board on **22nd January 2024**.

R.N. LADDHA, J.

Lata Panjwani, P.S.