



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

49 CRIMINAL WRIT PETITION NO. 611 OF 2024

**SHRI SAI SAMARTH HOSPITAL THROUGH ITS PARTNERS DR. AMOL
SUBHASH GHODKE AND OTHERS**

VERSUS

ASHWIN JAYNARAYAN BAHETI AND ANOTHER

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Advocate for the Petitioners : Mr. Sanket S. Kulkarni,
a/w. Mr. Ashish Kachole a/w Ms. Namita P. Thole
a/w Amitabh R. Singh

Advocate for Respondent No.1 : Mr. Pravin N. Kalani
and Mr. Umesh P. Darak

APP for Respondent No.2 / State : Smt. A. S. Deshmukh

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CORAM : KISHORE C. SANT, J.

DATE : 12.06.2025

PER COURT :

1. Heard the learned Advocate for the parties.
2. By consent, taken up for final disposal at the stage of admission.
3. The petitioners have approached this Court challenging the order passed by the learned J.M.F.C. (Court No.6), Aurangabad dated 17.02.2024 passed below Exhibit 18 in SCC No. 13513/2022. By way of impugned order the petitioners are directed to deposit 20% of the amount of cheque for the offences punishable under Section 138 of the Negotiable Instruments Act.

4. The argument of the petitioner in short is that while passing the order below Exhibit 18, the learned trial Judge has not recorded any reason and directed to deposit the amount.

5. Paragraph No.7 of the Order dated 17.02.2024 reads as below :

“In the present case, the accused appeared. Their plea is recorded at Exh. 16. They pleaded not guilty. Thus, the necessary requirement for grant of interim compensation have been fulfilled. It is clear that, whatever defence put-forth by the accused will not be considered at this stage. Therefore, the complainant is entitled to receive 20% of cheque amount as the interim compensation. The application is liable to be allowed.”

6. The learned Advocate for the petitioners relies upon the following judgments :-

(1) *Ashwin Ashokrao Karokar Vs. Laxmikant Govind Joshi, reported in 2023(1)MhLJ147,*

(2) *S. K. Marketing thr. its Proprietor Hassan Khuzema Shafiq Vs. Kaushik Udyog Limited, Criminal Writ Petition No. 545/2022 (Nagpur Bench), dated 06.10.2022.*

7. He also relies upon the judgment of the Hon'ble Apex Court in the case of *Rakesh Ranjan Shrivastava Vs. The State of Jharkhan and Ors.*, reported in *MANU/SC/0204/2024.*

8. The learned Advocate Mr. Kalani for respondent No.1 submits that the learned J.M.F.C. has rightly considered the same and the

defence of the petitioners. The power of Section 143A of the Negotiable Instruments Act is discretionary. The learned trial Judge though has not specifically given any reason, it is seen that the Court has considered the say of the petitioner. Thus, he opposes the writ petition.

9. After having heard the parties, this Court finds that it was necessary for the learned J.M.F.C. to give the reasons as to why the amount of 20% is directed to be deposited. This Court finds substance in the argument of learned Advocate for the petitioners, he has rightly relied upon the judgments cited above.

10. In view of the above, this Court finds that the impugned order needs to be quashed and set aside. Hence, following order :

ORDER

1. The Writ Petition is allowed.
2. The learned J.M.F.C., Aurangabad is directed to decide the application below Exhibit 18 in S.C.C. No.13513/2022 afresh within three weeks from today.
3. With this, Criminal Writ Petition stands disposed of.

(KISHORE C. SANT)
JUDGE