

Ashish

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

CRIMINAL REVISION APPLICATION NO. 209 OF 2025

Satyanarayan Radhesham Bhandari ... Applicant

V/s.

Kamal Kumar Agrawal ... Respondent

Mr. Gautam J Jain a/w Mr. Advait Tamhankar, for the applicant.

Mr. Sagar Agarkar, APP for respondent-State.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 9, 2025

P.C.:

1. By this Revision Application, the applicant, who is the original accused in proceedings under Section 138 of the Negotiable Instruments Act (for short "N.I. Act"), has questioned the order dated 21st April 2025 passed by the learned Sessions Judge. By the said order, the Sessions Court permitted the original complainant to withdraw an amount of Rs.14,52,000/- deposited by the applicant in terms of Section 148 of the N.I. Act.

2. The submission of the learned counsel for the applicant is that the applicant was in custody when the order directing deposit of the said amount came to be passed. For that reason, he did not challenge the said condition at the relevant time. It is urged that the deposit was in the nature of a bail condition. Therefore, according to the applicant, the appellate court had no authority to

allow the complainant to withdraw such amount during pendency of the appeal.

3. On considering the impugned order, it is clear that the appellate court had suspended the sentence of imprisonment subject to the applicant depositing the aforesaid sum of Rs.14,52,000/-. During pendency of the appeal, the original complainant moved an application seeking withdrawal of the said amount. While granting that request, the appellate court secured the interest of the applicant by directing the complainant to file an undertaking before the court. The undertaking was to the effect that if the complainant fails in the appeal, he shall refund the compensation amount to the applicant.

4. Thus, the order of the appellate court strikes a balance between the rights of both parties. The complainant is allowed to withdraw the amount, but subject to a clear obligation of restitution in case of failure in the appeal. The right of the applicant over the amount, in the event of his success in the appeal, therefore remains adequately safeguarded.

5. In view of this protection available to the applicant, there is no infirmity in the order permitting withdrawal of Rs.14,52,000/-. No case is made out for interference in revisional jurisdiction. The Revision Application is, therefore, dismissed.

(AMIT BORKAR, J.)