

Shabnoor

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

**INTERIM APPLICATION NO.919 OF 2025
IN
CRIMINAL REVISION APPLICATION NO.248 OF 2024**

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Sudam Manik Shewale

... Applicant

V/s.

Karunakar Narayan Shetty

... Respondent

Mr. Aditya S. Sawant for applicant/original complainant (Appointed as Legal-Aid).

Mr. Sushant Arora a/w Ms. Vaishnavi Adhav i/b LR & Associates for the respondent/ accused.

MS. Rajashree V. Newton, APP for the State – respondent.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 23, 2025

P.C.:

1. The original complainant, in a proceeding under Section 138 of the Negotiable Instruments Act, 1881, has filed an interim application seeking release of the amount deposited by the accused in this Court.

2. The said application is strongly opposed by the applicant/original accused. It is his contention that the complaint itself was barred by limitation and that both the Courts below have rendered perverse findings while recording conviction. It is further urged by him that the statutory notice contemplated under Section 138 of the Act was never served upon him. On this ground, he

argues that the very foundation of the complaint is defective and no valid conviction can be said to have been recorded. He also submits that he is an illiterate person, unable to comprehend the proceedings, and therefore withdrawal of the deposited amount at this stage would result in grave miscarriage of justice.

3. I have carefully considered the rival submissions. The objections raised by the accused pertain to the legality of the conviction and the maintainability of the complaint. These issues go to the root of the matter and are directly connected with the merits of the revision petition. Therefore, they cannot be conclusively adjudicated while considering the present interim application, which is limited in scope. At this stage, what is material is that both the Trial Court and the Appellate Court have concurrently recorded a finding of guilt against the accused and have directed payment of compensation to the complainant. Unless such conviction and direction are set aside in revision, the complainant is entitled to seek withdrawal of the deposited amount.

4. The record shows that the applicant has deposited Rs.6.1 lakh towards part satisfaction of the compensation of Rs.15.5 lakh, as directed by the Courts below. The complainant seeks interim withdrawal of the same. In balancing the rights of both parties, it is necessary to safeguard the interest of the accused as well, in case the revision petition succeeds.

5. Hence, the complainant is permitted to withdraw the deposited amount, subject to the condition that the applicant shall

file an undertaking before this Court. The undertaking shall state that if the revision petition is decided against him, he shall repay the amount so withdrawn by the complainant along with interest at the prevailing bank rate within eight weeks from the date of such decision.

6. The application is allowed in terms of prayer clauses (a) and (b).
7. The interim application is accordingly disposed of.

(AMIT BORKAR, J.)