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

**INTERIM APPLICATION NO.957 OF 2025
IN
CRIMINAL REVISION APPLICATION NO.253 OF 2024**

Surekha Shankar Shinde	... Applicant
V/s.	
State of Maharashtra and anr	... Respondents

Mr. Shekhar Mane, for the applicant.

Mrs. Kranti Hiwrale, APP for respondent No.1-State.

Mr. Akshay K for applicant in REVN No. 253 of 2024
and for respondent no.2 in IA.

Ms. Priya Chaturvedi for respondent no.5 (through
VC).

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 25, 2025

P.C.:

1. By this interim application, the complainant in proceedings under Section 138 of the Negotiable Instruments Act, 1881, has prayed for withdrawal of an amount of Rs.1,20,000/-, which has been deposited by the accused before the Sessions Court as well as the Magistrate's Court.

2. It is submitted on behalf of the complainant that both the Courts below, after appreciating the evidence, have recorded concurrent findings of conviction against the accused under

Section 138 of the NI Act and sentenced him accordingly. Both Courts have also directed the accused to pay compensation of Rs.4,00,000/- to the complainant. Towards part compliance of this direction, the accused has deposited the sum of Rs.1,20,000/-.

3. In these circumstances, the complainant, being the rightful recipient of the compensation awarded under the judgment of conviction, asserts his entitlement to withdraw the deposited amount.

4. The accused has opposed the application. His contention is that the complainant is 75 years old and therefore, at the most, only 50% of the deposited sum should be permitted to be withdrawn till the revision proceedings are decided.

5. Having considered the submissions and the record, I find that proceedings under Section 138 of the NI Act, though criminal in form, essentially partake a quasi-civil character since the ultimate relief is compensatory in nature. The legislative intent of Section 138 read with Section 357(3) of the Code of Criminal Procedure is to ensure that the complainant is compensated for the loss suffered on account of dishonour of cheque. This object would be frustrated if the rightful complainant is denied access even to the partial deposit made in compliance of the order of conviction.

6. In the present case, both the Trial Court and the Appellate Court have concurrently held the accused guilty and directed him to pay compensation of Rs.4,00,000/-. The amount of Rs.1,20,000/- lying deposited is only a fraction of that liability. Prima facie, therefore, the complainant has established a legal

right to seek withdrawal of this sum, subject to securing the interest of the accused in the event of success in the revision.

7. To balance the equities, it would be appropriate to permit the complainant to withdraw the deposited amount of Rs.1,20,000/-, on condition that he files an undertaking before this Court. Such undertaking shall state that if the revision is decided against him, he will repay the withdrawn amount to the accused within eight weeks from the date of such decision, along with interest at the prevailing bank rate.

8. Hence, the following order:

- a. The complainant is permitted to withdraw the amount of Rs.1,20,000/- deposited by the accused before the Sessions Court and Magistrate's Court.
- b. Before withdrawing the amount, the complainant shall file an undertaking before this Court that, in the event the revision is decided against him, he shall repay the said amount to the accused within eight weeks from the date of such decision, along with interest at the prevailing bank rate.
- c. On such undertaking being filed, the office shall release the amount in favour of the complainant.
- d. Interim application stands allowed in the above terms.

(AMIT BORKAR, J.)