



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

**968 CRIMINAL APPLICATION NO.4759 OF 2025
IN CRIMINAL WRIT PETITION NO.470 OF 2022**

**AJAY RAMNATH MISHRA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Advocate for Applicant : Mrs.Meera A. Bhosle
APP for Respondent-State : Mr.A.S.Shinde
Advocate for Respondent no.2 : Mr.D.A.Naik
...

CORAM : MEHROZ K. PATHAN, J.

DATE : 17.03.2026

P.C. :

1] The present applicant is the original complainant, who has filed complaint under Section 138 of the Negotiable Instrument Act bearing SCC No. 471 of 2018 before the learned Judicial Magistrate First Class at Bhusawal, District Jalgaon.

2] Heard the learned counsel for the applicant and the learned counsel for the respondent.

3] The learned Judicial Magistrate First Class, vide order dated 01.09.2021, convicted the respondent no.2 [original accused] for the offence punishable under Section

138 of the Negotiable Instrument Act and sentenced to suffer simple imprisonment for two months and has directed the accused to pay compensation of Rs.5 lacs, in default of payment and to suffer further simple imprisonment of one month. Against the said order, the accused has filed Criminal Appeal No.27/2021 before the learned Additional Sessions Judge, Bhusawal and the Sessions Court, vide order dated 04.10.2021, has suspended the sentence of imprisonment upon depositing an amount of 50% of the cheque amount with the learned Judicial Magistrate First Class within a period of four weeks from the date of the order.

4] Thereafter, the accused has filed Criminal Writ Petition No.470/2022 before this Court, challenging the order dated 04.10.2021. This Court, vide order dated 12.09.2022 has allowed the Writ Petition thereby directing the accused to pay 30% of the cheque amount of Rs.1,27,500/-, which has been already deposited by the accused with the concerned Court as on 07.06.2022.

5] The applicant has filed an application along with affidavit before the learned Judicial Magistrate First Class, Bhusawal in SCC No.471 of 2018 as on 07.04.2025 for withdrawal of the 30% amount, which was earlier deposited by the respondent no.2. The learned JMFC, Bhusawal, vide order dated 07.07.2025 and 23.07.2025,

rejected the application stating that the Writ Petition No.470 of 2022 does not state that which party is entitled to withdraw the deposited amount and there is no order by any Court which entitles for the claimed amount.

6] Thereafter, the respondent no.2 has filed Criminal Revision Application No.326 of 2024 before this Court against the judgment and order passed by the learned Sessions Court, Bhusawal in Criminal Appeal No.27/2021 and the same is pending. Initially, the present applicant has filed Criminal Application No.3199 of 2025 in Criminal Revision Application No.326 of 2024 for withdrawal of the amount of Rs.1,27,500/-. This Court, vide order dated 12.12.2025, was pleased to grant permission to the applicant to withdraw the Criminal Application No.3199 of 2025 and file the application for withdrawal of amount before the appropriate Court. Hence, the present Criminal Application for withdrawal of amount is filed by the applicant.

7] The learned advocate for the petitioner seeks permission to withdraw an amount of Rs. 1,27,500/- deposited by the respondent no. 2 (original accused) in the court of Judicial Magistrate First Class, Bhusawal District Jalgaon as per the order passed by this Hon'ble High Court in Criminal Writ Petition No. 470 of 2022 dated 27.04.2022.

8] Since the appeal against conviction filed by the respondent no.2 is already dismissed, I see no impediment in allowing the application. Hence the following order :

ORDER

i] The Criminal Application is allowed.

ii] The applicant is permitted to withdraw an amount of Rs.1,27,500/- deposited by the respondent no.2 (original accused) in the Court of Judicial Magistrate First Class, Bhusawal District Jalgaon as per the order passed by this Court in Criminal Writ Petition No. 470 of 2022 dated 27.04.2022.

iii] The Criminal Application is allowed subject to the applicant giving an undertaking before the trial Court to return back the amount if the appeal filed by the accused is allowed resulting into acquittal of the accused.

iv] Criminal Application is disposed of accordingly.

[MEHROZ K. PATHAN]
JUDGE

DDC