

**IN THE COURT OF THE PRINCIPAL SESSIONS
JUDGE, KODAGU AT MADIKERI.**

Present

Sri Hosamani Pundalik,
Principal District and Sessions Judge,
Kodagu-Madikeri

Dated this the 27th day of January, 2026

Crl.Appeal. No.64/2023

**Appellant/
Accused :**

Sri. H. M. Chandrashekar,
S/o Murugesha,
Aged 48 years,
R/o Mangaladevi Nagar,
Madikeri, Kodagu District.

**(Represented by Smt.Thaha E.A. Yaseen,
Advocate.)**

/Versus/

**Respondent/-
Complainant**

Smt. Jayamma H.D.,
W/o Erappa,
Aged 59 years,
R/at Door No.1,
District Hospital Quarters,
G.T.Road, Toll Gate,
Near Ganapathi Nursing Home,
Madikeri, Kodagu District.

(Represented By Sri.K.S. Sajan Naik, Advocate.)

**I.A. under Section 148 of the Negotiable
Instruments Act**

**Applicant/ :
Complainant**

Smt. Jayamma H.D.,
W/o Erappa,
Aged 59 years,
R/at Door No.1,
District Hospital Quarters,
G.T.Road, Toll Gate,
Near Ganapathi Nursing Home,
Madikeri, Kodagu District.

(Represented By Sri.K.S. Sajan Naik, Advocate.)

Vs.

**Respondent/
Accused**

Sri. H. M. Chandrashekar,
S/o Murugesha,
Aged 48 years,
R/o Mangaladevi Nagar,
Madikeri, Kodagu District.

**(Represented by Smt.Thaha E.A. Yaseen,
Advocate.)**

ORDER

This is an application filed by the counsel for the respondent/complainant under section 148(3) of the Negotiable Instruments Act, for release of 25% of the fine amount for Rs.1,13,000/- which has been deposited by the appellant/ accused before the trial Court in compliance of the order of this Court dated 24.06.2023, in favour of the respondent/complainant as an interim compensation, in the interest of justice.

2. The case of the applicant/complainant in brief is as under:

It is stated in the affidavit filed along with the application that the trial court has passed Judgment convicting the appellant-accused and this Court has suspended the sentence with a condition to deposit 25% of the amount and the appellant has deposited 25% of the amount for Rs.1,13,000/- before the trial court. Further it is stated that she indemnify the amount in the event of any order by the Court to deposit the amount and prayed to release the amount, in the interest of justice.

3. Per contra, it is contended by the learned counsel for the appellant/accused by filing objection that the application filed by the respondent is capricious, arbitrary, unjust and unsustainable at law and on facts and circumstances of the case. The recitals in the application are false, baseless and created for the purpose of filing the application. The appellant is contesting the case on several grounds and has good grounds to succeed in the appeal and if the respondent is allowed to withdraw the amount deposited, it would be very difficult to recover the same by the appellant and he would sustain comparative hardship and injury and prayed to dismiss the application with compensatory costs.

4. Thereafter, I have heard the arguments advanced by the learned counsel for the respondent/complainant and that of the learned counsel for the appellant/accused.

5. The points that would arise for my consideration in this case are as under:

1. Whether the application filed by the respondent/complainant under section 148(3) of N.I Act for release of 25% of the amount of Rs.1,13,000/-

deposited by the appellant/accused before the trial court, is deserves to be allowed?

2. What Order?

6. My finding to the above points are as under:-

Point No.1: In the Affirmative

Point No.2: As per final order
for the following:

REASONS

7. **Point No.1:** It is pertinent to note that the appellant/accused has preferred the present appeal against the judgment of conviction and order of sentence dated 24.06.2023 passed in CC No.466/2018 on the file of Addl. Civil Judge and JMFC., Madikeri. After hearing the arguments advanced by the appellant, my learned Predecessor in officer, by order dated 25.07.2023 has suspended the sentence passed in C.C.No.466/2018 on the file of Addl.Civil Judge and JMFC., Madikeri with the following conditions, Viz., (1) The appellant is released on bail on execution of personal bond of Rs.1,00,000/- with one surety for the likesum to the satisfaction of the

trial court; (2) The appellant shall deposit 25% of the fine amount within 15 days before the Trial Court.

8. It is pertinent to note that the respondent/complainant has filed the present application for release of 25% of the compensation amount deposited by the accused before the trial court stating that the trial court has passed Judgment convicting the appellant-accused and this Court suspended the sentence with a condition to deposit 25% of the amount, the appellant has deposited 25% of the amount of Rs.1,13,000/- before the trial court and further stated that the respondent indemnify the amount in the event of any order by the Court to deposit the amount and prayed to release the amount, in the interest of justice.

9. Per contra, it is contended by the learned counsel for the appellant/accused by filing objection that the application filed by the respondent is capricious, arbitrary, unjust and unsustainable at law and on facts and circumstances of the case. The recitals in the application are false, baseless and created for the purpose of filing the application. The appellant is contesting the case on

several grounds and has good grounds to succeed in the appeal and if the respondent is allowed to withdraw the amount deposited, it would be very difficult to recover the same by the appellant and he would sustain comparative hardship and injury and prayed to dismiss the application with compensatory costs.

10. It is pertinent to note that the decision in **Criminal Revision Petition No.425/2018, dated 18.02.2019** passed by the Hon'ble High Court of Karnataka wherein the Hon'ble High Court of Karnataka allowed the application and directed to release 20% of the amount in deposit made by the accused under Section 148 of the Act with condition that if the accused is acquitted in this case, the complainant has to repay the said amount of 20% so released in favour of him with interest at the bank rate as on the date of release. The complainant has to execute an indemnity bond with two sureties for the like sum to the satisfaction of the trial court to the effect that in the event of acquittal of the accused, he shall indemnify the said amount with interest at the bank rate as on the date of release of the amount. In another decision reported in **2023 Livelaw (Kar) 108** in

Criminal Petition No.1189/2023 C/w Criminal Petition No.1151/2023, Criminal Petition No.1153/2023, Criminal Petition No.1158/2023, Criminal Petition No.1311/2023, Criminal Petition No.1346/2023, Criminal Petition No.1350/2023, Criminal Petition No.1355/2023 and Criminal Petition No.1356/2023, dated 28.02.2023 passed by the Hon'ble High Court of Karnataka wherein the Hon'ble High Court of Karnataka allowed the application and 20% of the amount in deposit is ordered to be released to the petitioners-complainants with due identification, with a condition that they shall refund the amount within 60 days from the date of the order or plus 30 days, as per the proviso to Section 148(3) of the NI Act, if the accused is acquitted by the Appellate Court. In view of the above Judgments, I am of the considered opinion that the application filed by the applicant/complainant for release of 25% of the amount of Rs.1,13,000/- deposited by the accused deserves to be allowed, with the conditions in the Judgments referred above. Hence, I answered the above **point No.1 in the Affirmative.**

11. **Point No.2**: In view of my findings on point No.1, I proceed to pass the following:

ORDER

The application filed under section 148(3) of the Negotiable Instruments Act, by the respondent/complainant, is allowed.

The trial court is directed to release 25% of the amount of Rs.1,13,000/- in deposit made by the accused under Section 148 of the Act in favour of the complainant/respondent on proper identification, with the conditions that if the accused is acquitted in this case, the complainant has to repay the said amount of 25% so released in favour of complainant/respondent with interest at the bank rate as on the date of release. The complainant has to execute an indemnity bond with two sureties for the like sum to the satisfaction of the trial court to the effect that in the event of acquittal of the accused, she

shall indemnify the said amount with interest
at the bank rate as on the date of release of
the said amount.

(Dictated to the Steno Grade-I through Computer, typed by her and then signed and pronounced by me in the open court on this the **27th day of January, 2026.**)

(Hosamani Pundalik)
Principal District & Sessions Judge,
Kodagu-Madikeri.

(Order on IA under Section 148 of N.I.Act pronounced in Open Court Vide separate order)

ORDER

The application under section 148 of the Negotiable Instruments Act filed by the respondent/complainant, is allowed.

The trial court is directed to release 20% of the amount in deposit made by the accused under Section 148 of the Act in favour of the complainant/respondent on proper identification, with the conditions that if the accused is acquitted in this case, the complainant has to repay the said amount of 20% so released in favour of him with interest at the bank rate as on the date of release. The complainant has to execute an indemnity bond with two sureties for the like sum to the satisfaction of the trial court to the effect that in the event of acquittal of the accused, he shall indemnify the said amount with interest at the bank rate as on the date of release of the amount.

**Principal District & Sessions Judge,
Kodagu-Madikeri.**

The counsel for the appellant prays time for arguments and compliance under Section 481 of B.N.S.S., 2023 (under Section 437A of Cr.P.C.).

For arguments and compliance under Section 481 of B.N.S.S., 2023 (under Section 437A of Cr.P.C.).

Call on 09.10.2025.

**Principal District & Sessions Judge,
Kodagu-Madikeri.**