

CNR-MHBU010009812025

**Criminal Appeal No.52/2025,**

Ravindra Devidas Sabale

Vs.

Kishor Hukumchand Agrawal

& Anr.

Order below Exh.25.

(Dt. 15-10-2025)

1. This is an application on behalf of respondent No.1 for withdrawal of the compensation amount deposited by the appellant towards suspension of the sentence as per direction of this Court.

2. Briefly stated, the material averments in the application are as under:

The appellant has deposited an amount of Rs.3,70,000/- towards suspension of sentence as per order dated 21.08.2025 passed by this Court. Respondent No.1 has filed this application for withdrawal of the said amount. Hence, it is prayed that respondent No.1 may be permitted to withdraw the said amount deposited in the Court.

3. The appellant strongly resisted the application by filing say at Exh.26 It is contended that the impugned judgment and order of conviction passed by the learned trial Court came to be suspended by this Court, subject to deposit 20% amount of fine or compensation i.e. Rs.3,70,000/-. The suspension order is silent regarding the payment of compensation to respondent No.1. The appellant has a strong prima facie case and there is very possibility that the outcome of the said appeal will be in favour of the appellant. In such circumstances, respondent No.1 is not entitled to receive the amount deposited by the appellant towards suspension of sentence. The appellant, therefore, prayed to reject the application.

4. Heard the learned Advocate appearing for the appellant and learned Advocate for respondent No.1.

5. Perused the application, say, the impugned judgment and order dated 15.07.2025 passed by the learned Addl. Chief Judicial Magistrate, (2nd Court), Buldana in Summary Criminal Case No.1395/2023 and the order dated 21.08.2025 passed by this Court below Exh.5.

6. It is imperative to note that as per the order dated 21.08.2025 of this Court, the appellant has deposited an amount of Rs.3,70,000/- towards suspension of sentence.

7. At this juncture, recourse to Section 148(3) of the NI Act would be apposite. It reads as under:

“(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.”

8. In the light of the aforesaid exposition of law, reverting to the facts of the case, the learned Addl. Chief Judicial Magistrate, (2nd Court), Buldana was inclined to hold that the appellant has issued the impugned Cheque towards legally enforceable debt. Having regard to the findings of the learned Addl. Chief Judicial Magistrate, (2nd Court), Buldana, I am of the considered view that this is a fit case for giving permission to withdraw the amount of

compensation deposited by the appellant. With this, I am inclined to pass the following order:

Order

- (1) Application (Exh.25) is hereby allowed.
- (2) Respondent No.1 is permitted to withdraw the amount deposited by the appellant towards suspension of the sentence as per the order passed by this Court.
- (3) As per proviso to Section 148(3) of the Negotiable Instruments Act, 1881, if the appeal is allowed and the appellant/accused is acquitted, respondent No.1/complainant is directed to deposit the compensation amount received alongwith accrued interest, to be determined at that time.
- (4) Respondent No.1/complainant to file an undertaking as regards clause (3) of the order.
- (5) The payment be made to respondent No.1 on due identification and verification.

Dated : 15-10-2025.

(R. N. Rokade)
Sessions Judge, Buldana.

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Certificate

“I affirm that, the contents of this PDF file order are same word for word as per original order.”

Name of Steno	Shri. D.S.Ingle, Stenographer (Grade-III)
Name of Court	Sessions Judge, Buldana
Date of Order	15-10-2025.
Dictated on	15-10-2025.
Transcribed on	15-10-2025.
Checked and signed on	15-10-2025.
Uploaded on	15-10-2025.

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