

IN THE COURT OF DISTRICT JUDGE-1, & ASJ, GONDIA.**CRIMINAL APPEAL No. 34/2023.****(CNR NO.MHGO010006712023)****Ashokkumar -Vs- Kanhaiyalal+1****ORDER BELOW EXH. 14.****(Passed on this 27th day of October, 2023)**

This is an application under Sec. 148(3) of Negotiable Instrument Act filed by the respondent/original complainant for withdrawal of amount deposited by the appellant as directed by the Court for suspension of sentence as per the provisions of Sec. 148(1) of N. I. Act.

2] It is the contention of respondent No.1 that as per order passed below Exh.04 dated 15/05/2023, the appellant has deposited a sum of Rs.2,24,880/-. The complainant/respondent No.1 wants to withdraw the said amount which is permissible under Sec. 148(3) of N.I.Act. He has thus prayed for permission to withdraw the said amount.

3] The appellant has filed reply at Exh.17 and has opposed the application on the ground that the appeal is pending and the respondent cannot be allowed to withdraw the said amount. He has further submitted that if he is permitted to withdraw the amount surety be obtained from him.

4] As per the provision of Sec. 148(3) the Court has discretion to direct release of the said amount in favour of the complainant. The proviso-2 Sub. Sec. 3 of Sec. 148 of N.I. Act provides for the safeguard for recovery of the said amount, in case the appellant succeeds in the appeal. If appeal is allowed, the Court can direct the complainant to repay the amount along with the interest prevailing at the time of that financial year within period of 60 and/or 90 days. Under such circumstances, the objection raised by the appellant has no grounds. Hence, I pass the following order.

ORDER

- 1] Application [Exh. 14] is allowed.
- 2] The respondent No.1/Complainant is permitted to withdraw the said amount of Rs.2,24,880/-.
- 3] Nazar to pay the said amount to respondent No.1/complainant after due verification by depositing it in his bank account.
- 4] Application is disposed of.

Gondia.
Dated: 27.10.2023.

(Adil M. Khan)
District Judge-1 & ASJ,
Gondia.