

C.R.R. 494 of 2025
Sri Subodh Roy
Vs.
Sri Sanjoy Paul

Ms. Suman Sehanabis
Mr. Salok Sah

...For the Petitioner

Being aggrieved and dis-satisfied with the judgment and order passed by the learned Additional Sessions Judge, Second Court at Cooch Behar in Criminal Appeal No. 03 of 2024 present application has been preferred by the petitioner.

The background is that the opposite party/de facto complainant initiated a proceeding under Section 138 of the Negotiable Instruments Act before the Trial Court, being C.R. 349 of 2008 alleging that the petitioner in discharge of his legally forceable debt issued a cheque amounting to Rs. 2 lakh 50 thousand which when placed before the bank for encashment, it got dis-honoured. Learned Trial Court after conclusion of trial convicted the present petitioner and sentenced to suffer imprisonment for a period of two months and to pay a fine of Rs. 2 lakhs observing that fine amount if paid by the accused, shall be paid to the complainant by way of compensation.

Being aggrieved by that order petitioner herein preferred Criminal appeal before the Appellate Court being Criminal Appeal No. 03 of 2024 and the Court below by the impugned judgment and order dated 30th

June, 2025 dismissed the appeal and thereby affirmed the judgment of conviction and sentence passed by the Trial Court.

Being aggrieved by that order, the petitioner preferred the present application contending that the Trial Court has failed to consider that the cheque was not issued to met any legally enforceable debt and that the cheque was dis-honoured not on the ground of insufficient balance but on some other ground as reported by the drawer. Petitioner has other grounds to agitate before this Court at the time of hearing.

Having heard learned Counsel appearing on behalf of the petitioner, the application is admitted.

The petitioner is directed to serve a copy of the application along with a notice upon the opposite party through speed post intimating the next date of hearing and to file affidavit-of-service on the returnable date.

Learned Counsel appearing on behalf of the petitioner prays for stay of operation of the order dated 14th October, 2025 by which warrant of arrest order was issued against the convict and also for stay of execution of conviction order.

Having heard learned Counsel appearing on behalf of the petitioner, the issuance of warrant of arrest passed vide order dated 14.10.2025 and the execution of sentence awarded by the Court below will be stayed for a period of eight weeks or until further order whichever is earlier subject to deposit of Rs. 50,000/- before the Trial

Court within a period of seven days from the date of this order. Such deposit shall be without prejudice to the rights and contentions of the parties and also subject to the final adjudication of the present petition. In the absence of making deposit by the petitioner before the Court below within the said period, the stay order shall be vacated automatically.

Let the matter be listed under the heading 'Contested Application' before the next available Circuit Bench.

(Dr. Ajoy Kumar Mukherjee, J.)