

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CRIMINAL MISC.APPLICATION (DIRECTION) NO. 1 of 2024
In R/CRIMINAL REVISION APPLICATION NO. 657 of 2023**

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PARMAR JASAVANTKUMAR KANJIBHAI
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR MAHENDRA U VORA(3034) for the PETITIONER(s) No. 1
MR DAIFRAZ HAVEWALLA(3982) for the RESPONDENT(s) No. 2
MR HK PATEL APP for the RESPONDENT(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI**Date : 14/03/2024****IA ORDER**

By filing this application, the applicant has prayed for the following main relief:

“(A) YOUR LORDSHIPS be pleased to quash and set side order dated 15.06.2023 and further direct to released 20% amount (Rs.1,64,600/-) in favor of applicant i.e. original complainant and modified order dated 13.06.2023 in criminal revision application no 657/2023 on such terms and conditions as may be deemed fit and proper by this Hon'ble Court, in the interest of justice;”

2. Heard learned Advocate for the parties.
3. The complainant of the offence under Section 138 of the NI Act has prayed to release 20% of the cheque amount i.e. Rs.1,64,600/- deposited before the learned first appellate Court pursuant to the order under Section 148 of the NI Act.
4. On noticing Section 148(3) of the NI Act, the discretion has

been given to the Court to release the amount in favour of the complainant at any time during pendency of the appeal which may also be exercised by this Court under revision in view of Section 401 of the Cr.PC. Section 148(3) operates with the rider that in case if the accused is acquitted by the Court then the complainant is to repay the amount to the accused so released with the interest at the bank rate as published by the RBI prevalent at beginning of 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.

5. Learned Advocate for the applicant Mr.Vora has in utter fairness submitted that complainant seeks release of the money and will give an undertaking to the Court that in case the accused is acquitted from the charges, the complainant will repay the amount so released with the interest at the bank rate as published by the RBI prevalent at beginning of relevant financial year.

6. In view of the above, present application is allowed. The first appellate Court is directed to release the sum of Rs.1,64,600/- in favour of the present applicant – org. complainant on filing of the affidavit before first appellate Court and this Court for compliance of proviso to Section 148(3) of the NI Act.

(J. C. DOSHI,J)

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