

In the Supreme Court of Bangladesh
High Court Division
(Criminal Revisional Jurisdiction)

PRESENT:

MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN

CRIMINAL REVISION NO. 5054 OF 2025

Nipesh Chandra Mondol.....Convict-petitioner

-Versus-

The State and anotherOpposite parties

None appears.....For the convict-petitioner

Mr S.M Bazlur Rashid, Advocate

.....For the opposite party No. 2

Mr. Md. Anichur Rahman Khan, DAG with

Mrs. Tashrifa Sultana Jali, AAG and

Mr. Md. Emdadul Hoque, AAG

.....For the state

Heard on: 13.07.2026, 16.07.2026 and
19.07.2026

Judgment on: The 20th of July, 2026

ABU TAHER MD. SAIFUR RAHMAN, J.

This Rule was issued calling upon the opposite parties to show cause as to why the order dated 13.08.2025 passed by the learned Joint Sessions Judge, 1st Court, Naogaon in Sessions Case No. 864 of 2024, arising out of C.R. Case No. 593 of 2023 (Manda) rejecting the convict-petitioner's application for bail pending filing of an appeal against the judgment and order dated 04.02.2025 whereby the petitioner was convicted under section 138 of the Negotiable Instruments Act, 1881 and sentenced to suffer rigorous imprisonment for 01 (one) year and to pay a fine of Tk. 12,05,000/- out of which Tk. 12,00,000/-

was directed to be paid to the complainant and the remaining **Tk. 5,000/-** to be deposited into the State Treasury should not be set aside and/or such other or further order be passed as to this Court may seem fit and proper.

At the time of issuance of the Rule, the convict-petitioner was granted ad interim bail for 01 (one) year.

The complainant's case, in brief, is that the accused-petitioner, Nipesh Chandra Mondol, was the owner and possessor of 06 (six) kathas of land situated in Baidyapur Mouza. The complainant agreed to purchase the said land for a total consideration of Tk. 21,00,000/-. Pursuant to the agreement, on 07.05.2013 the accused-petitioner executed a written agreement on three non-judicial stamps of Tk.100/- each, bearing Nos. Khas-4364173, Khas-4364174 and Khas-4364175, acknowledging receipt of Tk.12,00,000/- as part consideration and undertaking to execute and register the sale deed in favour of the complainant within one month. It is further alleged that, despite repeated requests, the accused-petitioner failed to execute and register the sale deed. Upon the complainant's demand for refund of the advance money, the accused-petitioner, in discharge of his liability, issued Cheque No. 4093495 dated 10.07.2023 for Tk.12,00,000/- drawn on his account maintained with Janata Bank Ltd., Baidyapur Bazar Branch. The cheque, when presented for encashment, was dishonoured on 16.07.2023 due to insufficiency of funds. The complainant thereafter served a statutory legal notice dated

18.07.2023 demanding payment of the cheque amount within the prescribed period. Although the accused-petitioner received the notice on 27.07.2023, he failed to make payment within the statutory period. Consequently, the complainant instituted the instant case under section 138 of the Negotiable Instruments Act, 1881.

The accused-petitioner entered appearance before the trial Court and contested the case. Upon conclusion of the trial, the learned Court, by judgment and order dated 04.02.2025, found the accused-petitioner guilty under section 138 of the Negotiable Instruments Act, 1881 and convicted and sentenced him accordingly. As the accused was present in Court at the time of pronouncement of judgment, he was taken into custody and committed to jail in execution of the sentence warrant.

Thereafter, on 13.08.2025, the convict-petitioner filed an application before the trial Court praying for bail to enable him to prefer an appeal. The learned Court by Order No. 10 dated 13.08.2025, rejected the said application. Being aggrieved thereby, the convict-petitioner preferred the present Criminal Revision and obtained the Rule.

None appears on behalf of the petitioner to press the Rule. Although the matter has appeared in the cause list on several occasions with the name of the learned Advocate for the petitioner, none has appeared at the hearing. During the hearing,

this Court verbally directed the learned Advocate for the opposite party to communicate with the learned Advocate for the petitioner. It was subsequently reported that such communication had been made; nevertheless, no one appeared on behalf of the petitioner. Such conduct demonstrates a lack of due diligence in prosecuting the case and is wholly unacceptable. In these circumstances, this Court is constrained to proceed with the hearing and dispose of the Rule on its merits.

Mr. S.M. Bazlur Rashid, the learned Advocate for the complainant-opposite party No. 2, submits that the instant revision is misconceived and not maintainable, as it challenges only the order refusing bail without assailing the judgment and order of conviction by filing the statutory appeal. He therefore prays that the Rule be discharged.

Mr. Md. Anichur Rahman Khan, the learned Deputy Attorney General adopts the submissions advanced on behalf of the opposite party No. 2.

Heard the learned Advocates for the parties and perused the materials on record.

In order to appreciate the contention advanced by the learned Advocate for the complainant-opposite party No. 2, the pivotal question that falls for determination is whether the instant Criminal Revision, directed solely against the order

rejecting bail, is maintainable in law when the judgment and order of conviction and sentence remain unchallenged.

It appears that the petitioner was convicted under section 138 of the Negotiable Instruments Act, 1881. Section 138A of the Act provides a specific appellate remedy against a judgment of conviction passed under section 138. On perusal of the impugned order dated 13.08.2025 it transpires that the petitioner has not preferred any appeal against the judgment and order of conviction and sentence dated 04.02.2025. Nor has he challenged the conviction by invoking the inherent jurisdiction of this Court.

Therefore, the conviction and sentence remain valid, operative and executable in accordance with law. It is a settled principle that where a statute provides a specific appellate forum, the aggrieved person must avail such remedy and cannot circumvent the same by invoking revisional jurisdiction on a collateral issue. In the absence of any challenge to the conviction itself, a revision directed solely against an order refusing bail is not maintainable.

In the facts and circumstances of the case, I am of the view that the present revisional application is misconceived and not maintainable in law.

Accordingly, the Rule is discharged.

The order of ad-interim bail granted earlier by this Court stands recalled and cancelled.

The convict-petitioner is directed to surrender before the concerned Court below within **30 (thirty)** days from the date of receipt of a copy of this judgment and order, failing which the concerned Court below shall take necessary steps for execution of the sentence in accordance with law.

Let a copy of this judgment and order be communicated to the Court below at once for information and necessary action.