

**Present:**

Mr. Justice Md. Shohrowardi

Criminal Revision No. 2787 of 2025

Md. Rofiqul Islam

...Convict-petitioner

-Versus-

The State and another

...Opposite parties

No one appears.

...For the convict-petitioner

Mr. Mohammad Salim Miah, Advocate

...For the complainant-opposite party No. 2

Heard on 14.01.2026

**Judgment delivered on 21.01.2026**

On an application under Section 439 read with Section 435 of the Code of Criminal Procedure, 1898 Rule was issued calling upon the opposite parties to show cause as to why the impugned order No. 36 dated 04.06.2025, passed by the Additional Metropolitan Sessions Judge, Court No. 6, Dhaka, rejecting the application for bail of the convict-petitioner Md. Rofiqul Islam arising out of judgment and order of conviction and sentence dated 30.09.2019 passed by the Additional Metropolitan Sessions Judge, Court No. 6, Dhaka in Metro Sessions Case No. 6550 of 2016 arising out of C.R. Case No. 446 of 2015 convicting the petitioner under section 138 of the Negotiable Instruments Act, 1881 and sentencing him thereunder to suffer rigorous imprisonment for 01(one) year and fine of Tk. 20,00,000 (twenty lakh) should not be set aside and/ or pass such other or further order or orders as to this Court may seem fit and proper.

No one appears on behalf of the convict-petitioner.

Learned Advocate Mr. Mohammad Salim Miah, having placed the affidavit sworn on 15.01.2026 by the opposite party No. 2, submits that in compliance with the order dated 30.06.2025, the accused did not deposit 50% of the cheque amount, and no appeal has been filed by him against the impugned judgment and order. He prayed for discharging the Rule.

I have considered the submission of the learned Advocate Mr. Mohammad Salim Miah, who appeared on behalf of the complainant-opposite party No. 2, perused the impugned order passed by the trial Court, and the records.

On perusal of the records, it appears that at the time of issuance of the Rule on 30.06.2025, bail was granted to the convict-petitioner Md. Rofiqul Islam for 02(two) months on condition to pay 50% of the cheque amount to file an appeal, which expired on 30.08.2025. Section 426(2A) of the Code of Criminal Procedure, 1898 empowers the trial Court to grant bail to the accused who is sentenced to suffer imprisonment for a term not exceeding one year on the condition of filing an appeal against the judgment and order of conviction and sentence passed by it. It is alleged that in the meantime, no appeal has been filed by the convict-petitioner following the direction dated 30.06.2025 passed by this Court.

The Negotiable Instruments Act is a special law. Section 138A is inserted in the said Act by Act No III of 2006, making provision to deposit 50% of the cheque amount before filing an appeal against the judgment and order of conviction and sentence passed by the trial Court. Section 138A of the Negotiable Instruments Act, 1881 imposes a restriction in respect of the right of appeal and excludes the application of the Code of Criminal Procedure, 1898, unless 50% of the cheque amount is deposited before filing an appeal in the trial Court.

The power of the trial Court under Section 426(2A) of the Code of Criminal Procedure, 1898 is limited only to the extent of filing an appeal, subject to deposit 50% of the cheque amount. I am of the view that the trial Court is not empowered under Section 426(2A) of the Code of Criminal Procedure, 1898, to grant bail to the convict-petitioner to file a revision after the disposal of a criminal appeal. Therefore, the Rule is not maintainable in law.

In the result, the Rule is discharged.

The convict-petitioner Md. Rofiqul Islam is directed to surrender forthwith and deposit the fine amount in the trial Court, failing which the trial Court shall do the needful.

However, there will be no order as to costs.