

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CRIMINAL REVISIONAL JURISDICTION)

Present:

Mr. Justice Md. Bashir Ullah

Criminal Revision No. 2458 of 2025

China Begum

...Convict- Petitioner

-Versus-

The State and another

..... Opposite Parties.

None appears

..... For the petitioner.

Mr. Muhammad Rahmatullah, Advocate

.....For Opposite Party No. 2.

Mr. S. M. Aminul Islam Sanu, DAG with

Mr. Md. Nasimul Hasan, AAG with

Mr. Md. Golamun Nabi, AAG and

Ms. Farhana Abedin, AAG

..... For the State.

Heard on 12.01.2026, 13.01.2026 and 25.01.2026
Judgment on 02.02.2026.

This Rule was issued at the instance of the convict-petitioner calling upon the opposite party to show cause as to why the order No. 12 dated 09.03.2025 passed by the learned Joint Sessions Judge, 6th Court, Dhaka rejecting the prayer for bail of the convict-petitioner arising out of the judgment and order of conviction and sentence dated 23.09.2024 passed in Sessions Case No. 2801 of 2022 arising out of C.R Case No. 295 of 2022 (Keranigonj)

convicting the petitioner under Section 138 of the Negotiable Instruments Act, 1881 and sentencing her to suffer simple imprisonment for a period of 01(one) year and to pay a fine of Taka 37,00,000/- (thirty seven lac), should not be set aside and/or such other or further order or orders be passed as to this Court may seem fit and proper.

Facts relevant for disposal of the Rule, in brief, are that opposite party No. 02, Rina Begum as complainant filed C.R Case No. 295 of 2022 before the Court of the Chief Judicial Magistrate, Dhaka against the present petitioner alleging *inter alia* that, the accused obtained a loan amounting to Taka 37,00,000/- (thirty seven lac) from the complainant. Upon failure to repay the said amount in time, the accused issued the cheque in question in favour of the complainant on 22.11.2021 towards repayment of the outstanding liability for Taka 37,00,000/- (thirty seven lac). It was dishonoured by the bank concerned on 07.02.2022 due to insufficiency of funds. Thereafter a statutory legal notice was issued to the petitioner on 09.02.2022 demanding payment of the cheque amount, but the petitioner failed to comply with the same. Hence, the case was filed on 23.03.2022.

Subsequently, the case was transferred to the Court of Joint Sessions Judge, Additional Court, Dhaka and was registered as Sessions Case No. 2801 of 2022. Upon taking cognizance of the offence charge was framed on 22.03.2022. After hearing the parties, the learned Joint Sessions Judge, Additional Court, Dhaka found the petitioner guilty of the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to suffer simple imprisonment for 01(one) year and to pay a fine of Taka 37,00,000/-(thirty seven lac) by judgment and order dated 23.09.2024.

Thereafter, the petitioner filed an application for bail on 09.03.2025 before the learned Joint Sessions Judge, 6th Court, Dhaka without filing any appeal against the judgment of conviction and without depositing 50% of the cheque amount as required under the provision of law. The learned Judge, upon consideration, rejected the application for bail by order No.12 dated 09.03.2025.

Being aggrieved by and dissatisfied with the order dated 09.03.2025 the petitioner preferred this Criminal Revision before this Court and obtained the Rule. Pending hearing of the Rule, this

Court enlarged the petitioner on ad-interim bail for 03(three) months subject to conditions runs as follows:

“Pending hearing of the Rule, let the convict-petitioner namely, Chaina Begum, wife of Minhajul be enlarged on ad-interim bail for a period of 03 (three) months from date, subject to furnishing bail bond and after release the convict petitioner from the jail custody to deposit 50% money of the cheque amount to the concerned bank for filing appeal against the judgment and order of conviction and sentence dated 23.09.2024 passed by the learned Joint Sessions Judge, 6th Court, Dhaka within 90 (ninety) days and to furnish bail bond to the satisfaction of the learned Joint Sessions Judge, 6th Court, Dhaka.”

When the revisional application was taken up for hearing none appeared on behalf of the petitioner to support the Rule although the matter had been appearing in the daily cause list on several days with the name of the learned Advocate for the petitioner.

Per contra, Mr. Muhammad Rahmatullah, the learned Advocate appearing for the opposite party No. 2 by filing an application for discharging the Rule submits that the charge brought against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 has been proved beyond reasonable doubt and the trial Court rightly convicted and sentenced the petitioner. He further contends that the petitioner sought bail without preferring any appeal and without depositing 50% of the cheque amount as mandated by law and hence, the trial Court rightly rejected the prayer for bail. He next submits that this Court enlarged the petitioner on bail for 3 months from 29.05.2005 subject to compliance with specific conditions, the petitioner failed to comply with the said conditions and as such the Rule is liable to be discharged.

I have heard the learned Advocate for the opposite party No. 2 and perused the materials on record.

It appears that by order dated 29.05.2025, this Court issued the Rule and enlarged the petitioner on bail for a period of 3 months and after expiry of the said period of bail the petitioner neither took any step for extension of the period of bail, nor complied with the condition of preferring an appeal by depositing 50% of the cheque amount within the stipulated period of 90 days. Thus the petitioner has failed to comply with the directive issued by this Court. Consequently, the order of ad-interim bail has automatically lost its force and has become ineffective and infructuous.

Moreover, the Appellate Division has consistently discouraged the practice of granting bail to a convict under Section 138A of Negotiable Instruments Act for any period merely on the condition of preferring an appeal against the sentence, unless at least 50% of the cheque amount is deposited prior to filing of such appeal.

In this regard the Apex Court observed, in *Pubali Bank Limited Vs. Chowdhury Shamim Hamid and others*, reported in 31 ALR(AD)58 = 77 DLR(AD)(2025)113, wherein it has been held:

“It is manifest from the overall reading of the Negotiable Instruments Act that the legislature inserted the provision of deposit of 50% of the total cheque money before preferring an appeal in the Negotiable Instruments Act only to streamline the process of recovery of cheque money so that no person can deceive another as regards transactions over cheque. Therefore, the pre-condition of depositing 50% of the total cheque money while preferring appeal as enshrined in Section 138A of the Negotiable Instruments Act cannot be given a go-bye which according to the principle of interpretation of statute must be adhered to. The High Court Division is not given such latitude to allow a convict under Section 138(1) of the Negotiable Instruments Act to go on bail for some period on condition of preferring appeal against the sentence without depositing 50% of the total cheque money before preferring appeal. But the High Court Division by the impugned orders misconstrued

the provisions of Section 138A of the Negotiable Instruments Act and as such those call for interference by this Division.”

In view of the facts, circumstances of the case and the *ratio* passed by the Apex Court in the above-mentioned case, this Court finds no merit in the Rule which is liable to be discharged.

In the result, the Rule is discharged.

The petitioner is directed to surrender forthwith before the Trial Court concerned to comply with the judgment and order dated 23.09.2024 passed by the learned Joint Sessions Judge, Additional Court, Dhaka in Sessions Case No. 2801 of 2022.

However, upon deposit of 50% of the total cheque amount by the petitioner this judgment shall not preclude the petitioner from preferring an appeal against the respective judgment pronounced by the trial Court. In case of deposit of 50% of the total cheque amount the Court below will be at liberty to enlarge the petitioner on bail in connection with the case.

Let a copy of this judgment and order be communicated to the Court concerned forthwith.

(Md. Bashir Ullah, J.)

Md. Sabuj Akan/ ABO.