

ORDER BELOW EX.5**IN CRIMINAL APPEAL NO.111/2025**

1. The instant application has been filed by the appellant/convict namely, **Nikeshbhai Bharatbhai Panchal** under Sec. 415(1) of B.N.S.S. seeking suspension of the sentence and releasing him on bail during the pendency of this criminal appeal.
2. The present appellant has been sentenced with simple imprisonment of one month and fine of Rs. 5,000/- while convicting him for offence u/Sec. 85(1)(f), 85(1)(g) of The Gujarat Value Added Tax Act, 2003 in Criminal Case No. 9823 of 2014, vide judgment dated 27/02/2025 passed by Ld. Judicial Magistrate, First Class, Ahmedabad (Rural). Now, the aforesaid application at Ex. 5 has been preferred by the appellant/accused under Sec. 415(1) of B.N.S.S. seeking bail and suspension of sentence on the following grounds.
 - i. that the sentence awarded to the appellant in this case is of one month & of fine only and hence, after the pronouncement of the judgment the trial court released the appellant on bail under the provisions of section 415(3) of B.N.S.S.;
 - ii. that the appellant/accused has full hope of succeeding in this criminal appeal and if he is kept in jail during the pendency of this appeal then grave injustice will be caused to him, if finally, the appeal is allowed;
 - iii. that the appellant/accused has always remained present before the Trial Court regularly and shall also remain present before the Appellate Court;
 - iv. that the appellant/accused was also on bail

during entire trial period.

3. I have heard the arguments of learned counsel for the appellant and that of the Ld. APP for the State and perused the judgment under challenge.

The appellant has been sentenced with simple imprisonment of one month with fine of Rs. 5,000/-; he was on bail during the trial period also. Moreover, the appellant is the local resident and is ready and willing to file required surety and personal bond as well as an undertaking ensuring his presence before the appellate court as and when required.

4. Hence, considering all these facts I am of the opinion that instant application for bail and suspension of sentence should be allowed. Accordingly, following order is passed: -

-// O R D E R \\\-

1. The present application at Ex. 5 under Sec. 415(1) of B.N.S.S. is hereby **allowed**.
2. It is hereby ordered that the sentence of one month of simple imprisonment and fine of Rs. 5,000/- awarded to the appellant in Criminal Case No. 9823/2014 dated 27/02/2025 by Ld. Judicial Magistrate, First Class, Ahmedabad (Rural) shall remain suspended during the pendency of this criminal appeal.
3. The appellant shall file bail bond and surety to the tune of Rs. 25,000/-. The release of the appellant on bail during the pendency of this appeal shall be subject to the following conditions:

CONDITIONS:

- 1.Appellant must not to take undue advantage of his liberty or abuse his liberty and must not involve in any offence;
- 2.Not to act in a manner injurious to the interest of the prosecution;
- 3.Not to leave limits of India without prior permission of this Court;
- 4.Not to tamper with evidence or terrorize the witnesses concerned;
- 5.Appellant must remain present before this Court during the proceedings of this criminal appeal as and when required.

A copy of this order be sent to the Court of concerned Ld. Magistrate.

Signed and pronounced in the open court today on this
02nd DAY OF APRIL' 2025 at Ahmedabad.

Date:- 02/04/2025
Place:- Ahmedabad

(**RAHUL P.S. RAGHAV**)
4th Addl. Sessions Judge,
Ahmedabad, Rural
Code No. GJ01508