

ORDER BELOW EX.5 IN
CRIMINAL APPEAL NO. 267 of 2024

1. The instant application has been filed by the appellant namely, **Shailesh Parshottambhai Patel** under Sec. 430(1) of B.N.S.S., 2023 seeking bail and suspension of the sentence during the pendency of this criminal appeal.
2. The present appellant/accused has been sentenced with simple imprisonment of two years and fine equivalent to double of the cheque amount i.e., Rs. 10,00,000/- while convicting him for offence u/s. 138 of the Negotiable Instruments Act in Criminal Case No. 14413/2022 vide judgment dated 26/09/2024 passed by Ld. 5th Addl. Chief Judicial Magistrate, Ahmedabad (Rural). Now, the aforesaid application at Ex. 5 has been preferred by the appellant/accused under Sec. 430(1) of B.N.S.S., 2023 seeking bail and suspension of sentence on the following grounds:
 - i. that the imprisonment awarded to the accused in this case is of two years only;
 - 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 was also on bail during entire trial period.

iv. that after pronouncement of the judgment & order of sentence the appellant applied for bail u/s 430(3) of B.N.S.S., 2023 which has been granted by the Trial Court and thus, the appellant is on bail.

3. I have heard the arguments of learned counsel for the appellant and perused the judgment under challenge. The appellant/accused has been sentenced with simple imprisonment of two years; he was on bail during the trial period also. Moreover, the appellant 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. However, keeping in mind the fact that the instant complaint is of the year 2022 and that the disposal of this appeal shall take further time this Court considers it fit and proper to direct the appellant to deposit 20% percent of the compensation amount in the Court in compliance of Section 148(1) of the Negotiable Instruments Act.

5. Therefore, considering all these facts I am of the opinion that instant application for bail and suspension of sentence should be allowed with a condition to comply section 148(1) of the Act and

hence, the following order is passed: -

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

1. The present application at Ex. 5 under Sec. 430(1) of B.N.S.S., 2023 is hereby **allowed**.
2. It is hereby ordered that the **sentence of two years of simple imprisonment and fine of Rs. 10,00,000/-** in Criminal Case No. 14413 of 2022 dated 26/09/2024 by 5th Addl. C.J.M., Ahmedabad, Rural as against the appellant **shall remain suspended** during the pendency of this criminal appeal.
3. The appellant is directed **to deposit in this Court Rs. 2,00,000/- (Rupees Two Lakh Only), i.e., 20% of the fine amount within sixty days** from the date of this order.
4. The **appellant/accused is directed to be released on bail during the pendency of this criminal appeal on executing a surety of Rs. 25,000/- and personal bond of like amount** subject to following conditions:

CONDITIONS:

1. Applicant 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. Applicant must remain present before this Court during the proceedings of this criminal appeal as and when required.
6. Failure to comply the order to deposit 20% of the cheque amount within the given time limit shall amount to breach of the condition on which this bail is being given.

Signed and pronounced in the open court today on this **24th Day of October' 2024 at Ahmedabad.**

Date: 24/10/2024

Place:- Ahmedabad

(**RAHUL P.S. RAGHAV**)

4th Addl. Sessions Judge,

Ahmedabad, Rural

Code No. GJ01508