

**IN THE COURT OF 3rd ADDITIONAL DISTRICT AND SESSIONS
JUDGE, ANAND @ KHAMBHAT**

CRIMINAL APPEAL NO. 51 /2023

ORDER BELOW EX. 4

1. The applicant being original accused before the trial court in Criminal Case No. 338/2019 was convicted and sentenced to undergo simple imprisonment for one year (01) and to pay fine to the tune of rupees Five thousand along with compensation to the tune of **Rs. 4,00,000-00** to the complainant and in default of the same, to further undergo, simple imprisonment for 6 months, vide order dtd 09/11/2023. The impugned judgment has been challenged by the applicant-accused under this appeal and inter-alia this application vide Ex. 5 u/s 389 of Cr.P.C., for suspension of sentence has been filed.
2. Heard Id. Advocate for the applicant-accused, complainant and Id. APP.
3. Id. advocate for the applicant-accused has contended that the present appeal was filed within the time specified in the order dtd 09/11/2023 passed by Id. JMFC, Tarapur. He has further stated that convict surrendered before the Id. trial court and is ready to deposit the 20% amount within the time frame as specified by this court and shall always attend the court proceedings without fail.
4. Considering the fact that original complainant has not raised any serious objection for granting this application and has shown his willingness to settle the matter. Hence considering the factual position and the mandate of Section 389 of the Cr.P.C. this court

deems it fit to use its discretion in favour of the convict, therefore following order is passed;

: O R D E R :

- ➔ This application Ex. 4 u/s 389 of Cr. P. C., is hereby allowed conditionally.
- ➔ The execution of the sentence, inflicted on the present appellant-accused vide order dtd 09/11/2023 passed by the Ld. Judicial Magistrate First Class, Tarapur, in Criminal Case No. 338/2019 u/s 138 of the N.I Act, is hereby suspended till the disposal of this appeal, subject to the deposit of 20% amount of the compensation awarded by the Id. Trial court as per the provision enumerated in the 148 of the N.I. Act, within 30 days from the date of this order and on executing bail bond of **Rs. 10,000-00 (Ten Thousand only)** with one surety of the like amount to the satisfaction of Id. trial court.
- ➔ Yadi of this order be sent to the Id. trial court.
- ➔ The applicant shall regularly remain present before the court on each and every hearing.
- ➔ Pronounced and signed in the open court on today 11th day of December, 2023.

Date : 11-12-2023
Place : Khambhat

(Parveen Kumar)
3rd Additional District & Sessions Judge,
Anand @ Khambhat
JUDGE CODE - GJ-01511