

GJGS030000452026



Received on : 22.01.2026

Registered on : 22.01.2026

Decided on : 04.08.2026

Duration : 06 – Months &
13 - Days.

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BEFORE THE HON'BLE 3rd ADDITIONAL SESSIONS JUDGE,
AT UNA, DISTRICT GIR-SOMNATH,

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Criminal Appeal No. 5 of 2026

Exh._____

Merubhai Dhanabhai Bambhaniya,

Age:-50 years, Occupation:-Labourer,

R/o. :- Nathad, Ta.:-Una,

District Gir-Somnath.

....Applicant

Versus

The State of Gujarat

Through the A. P. P. Una,

District Gir-Somnath.

....Opponent

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Appearance:-

Ld. Advocate Mr. B. R. Parmar for the applicant.

Ld. A. P. P. Mr. M. K. Gohel for the opponent – The State.

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Subject:- Criminal Appeal u/s. Section 415(3) of B.N.S.S.
2023.

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J U D G M E N T

- (1) The present appeal is directed against the Judgment of conviction and sentence recorded by the Learned 2nd

Additional Chief Judicial Magistrate, Una in **Criminal Case No. 1466/2013** dated **03-01-2026**; whereby the present appellant – original accused came to be convicted for the offence punishable u/s. **324 and 325 of Indian Penal Code, 1860** (hereinafter referred to as ‘IPC’ in short) and for the offence punishable u/s. 324 of the IPC, he was directed to undergo simple imprisonment for one year and for the offence punishable u/s. 325 of the IPC, he was directed to undergo rigorous imprisonment of three years with default stipulation.

(2) Learned Advocate **Mr. B. B. Solanki** appeared for the appellant and moved an application **Exh.06** and submitted that he does not press the present appeal insofar as the order of conviction and sentence passed by the Learned Trial Court is concerned, however, he has requested this Court to grant benefit of probation under the Probation of Offenders Act, 1958 (hereinafter referred to as ‘the Act’ in short) in favour of the appellant.

(2.1) In pursuance to the above referred application i.e. **Exh.06**, this Court requested the Probation Officer, Veraval to submit the detailed report with regard to the conduct, health and past antecedents with other relevant details of the appellant – original accused.

- (3) The Learned Probation Officer, Veraval has submitted the detailed report under the Act, through his forwarding letter dated **29-06-2026** and the same is taken on record vide Exh. 12.
- (3.1) The above referred report submitted by the Probation Officer depicts the fact that the appellant is having deep roots in the society and do not have any antecedents. He has cordial relations with neighbors. Probation Officer further opined that the appellant – original accused may be granted benefit under the Act.
- (4) Learned A. P. P Mr. M. K. Gohel appeared on behalf of the State and submitted that since the Learned Advocate for the appellant has not argued insofar as the findings given by the Learned Trial Court, there is no question of conviction to be set aside or interfered with and impugned judgment may be confirmed. However, looking to the gravity of offence, appellant/s cannot be granted benefit under the provisions of Probation of Offenders Act. If benefit of probation of offenders Act is granted, it would have adverse effect in the society and people would more and more indulge in such types of offences. At the end of his oral submissions, Ld. A. P. P. has prayed to confirm the impugned judgment without giving benefit of probation of offenders Act.

- (5) As the Learned Advocate for the appellant has not argued with regard to the findings recorded by the Learned Trial Court and order of conviction and sentence, this Court does not have any other choice, but to confirm the impugned order dated **03-01-2026**. The order of conviction and sentence recorded by the Learned Trial Court is hereby confirmed.
- (6) The appellant has requested to grant benefit under the Act. It is required to be noted that the appellant is convicted and directed to undergo sentence. In my *prima facie* view and on perusal of report filed by Probation Officer, appellant is entitled to get benefit under the Act. This Court directed the Probation Officer to submit the detailed report with regard to the conduct and past history of the appellant and in compliance thereto, the report has been submitted before this Court and from the said report, it appears that the appellant is entitled to get the benefit under the Act. But at the time of granting benefit in favour of appellant - original accused, victim is also required to be taken care of. Generally, this Court awards compensation to be paid to the victim, but on perusal of record and proceedings of the case, parties have, out of the Court, arrived at compromise, they being family members and they have filed compromise pursis vide Exh. 9,10,11 and therefore, it would not be appropriate

to pass any order relating to compensation. Even Ld. Trial Court has not awarded compensation to the victim. Accordingly, I deem it fit to use discretion to grant benefit under Section – 4 of the Act, and therefore, I pass the following order :

- :: Final Order :: -

1. The order of conviction, sentence and fine dated **03-01-2026** passed by the Learned **2nd Additional Chief Judicial Magistrate, Una** in Criminal Case No. **1466/2013** is hereby **confirmed**.
2. The appellant – original accused is released on probation of good conduct and he is directed to furnish bond of **Rs. 15,000/-** (Rupees Fifteen Thousand only) each with Surety of like amount before the concerned Police Station, stating that he will maintain peace and will not act in any manner which may adversely affect the peace and tranquility of others. **Concerned Police Station shall report the compliance to this Court.**
3. If the above referred condition No.2 is violated, the concerned police will be at liberty to arrest the appellant without there being any formal warrant issued by this Court.
4. Yadi be sent to the concerned police station.

5. With the above referred observations, the present appeal is partly allowed.
6. Copy of this order be sent to Ld. Trial Court along-with R & P, if any.

Signed and pronounced today in Open Court on this **04th** day of **August, 2026**.

Date : 04/08/2026
Place : Una

(Sunil Mahendrabhai Govani),
3rd Addl. Sessions Judge,
Una, District: Gir Somnath.
UID : GJ00918