



ORDER PASSED BELOW Exh.-5
In
CRIMINAL APPEAL No. 357/2024

The Ld. Trial Judge, 5th Additional Chief Judicial Magistrate, Jamnagar, had convicted the Accused for the offence punishable under Section 138 of Negotiable Instruments Act, 1881, for 1 Months simple imprisonment and directed to pay compensation of Rs.4,00,000/- in failure of same, the accused shall undergo more 6 Months simple imprisonment, in Criminal Case No. 4972/2023 vide Judgment and Order dated 19/07/2024. The said Judgment & Order is challenged by the present Appellant / Accused - Convict and has also filed an application at Exh.-5, for stay the order of sentence.

The Ld. Advocate for the Appellant has submitted that the cheque was of Rs.4,00,000/- and the Appellant is ready and willing to deposit about 20% of cheque amount (Rs.80,000/-) within 60 days from today and has also filed Affidavit at Exh.-6 in that regard and requested to stay the execution of sentence of imprisonment. The Ld. Advocate for the Appellant has submitted that the matter requires consideration on appreciation of evidence and

applicability of law. In light of such submission and the fact that the Appellant has filed Affidavit that the Appellant is ready and willing to deposit Rs.80,000/- in 60 days from today in concerned Trial Court, it will be just and proper to stay the implementation of impugned Judgment and Order dated 19/07/2024 and execution of sentence of imprisonment passed in Criminal Case No. 4972/2023, till next returnable date. In the humble opinion of this Court, if following order will be passed, then it will be in the interest of justice. Hence, I pass following order to meet the end of justice :

-:: ORDER ::-

- **Notice to Respondents returnable on dated 13/09/2024.**
- **The Appellant / Convict shall deposit Rs.80,000/- in 60 days from today in Court, as per his affidavit at Exh.-6, in the concerned Trial Court and on that condition, the implementation of impugned Judgment and Order dated 19/07/2024 and execution of sentence of imprisonment passed in Criminal Case No. 4972/2023, by Ld. 5th Additional Chief Judicial Magistrate, Jamnagar, is stayed, till next returnable date.**

- On depositing the above amount, the Hon'ble Chief Judicial Magistrate, at Jamnagar, is requested to fix deposit the said amount in any nationalized bank initially for 1 year, having auto renewal facility annually, till final disposal of this Appeal.
- The Appellant shall furnish surety of Rs.25,000/- and personal bond of like amount, with condition that the Appellant / Convict shall remain present personally on every dates of this appeal. The bail bonds shall be executed before the concerned Trial Court. The accused and surety shall declare all details of surety like amount of surety, address, telephone/mobile numbers, email address etc. by pursis before this Court within 7 days.
- Yadi, alongwith the Copy of this Order be sent to the concerned Hon'ble Magistrate.

Signed, pronounced and declared in the Open Court on this 13th day of August, 2024, at Jamnagar.

Date : 13/08/2024

Place : Jamnagar

/D.B.Karia/

(Rasikkumar V. Mandani)

2nd Addl. Sessions Judge
Jamnagar. (Code : GJ00715)