

CNR No. :

GJJN220003922025



Received on : 09/12/2025
Registered on : 09/12/2025
Decided on : 29/07/2026
Duration : **7 Months,
20 Days.**

**IN THE COURT OF 3RD ADDITIONAL SESSIONS JUDGE,
AT VANTHALI**

CRIMINAL REVISION APPLICATION NO.17 OF 2025

EXHIBIT :-

APPLICANT:

Chaturbhai Govindbhai Shingala

Age : 68 years, Occupation : Business,
R/o. D-301, Panchratna Avenue,
Gangotri Road, Beside Dipak School,
Nikol,
Ahmedabad-382 350.

Versus

OPPONENT:

The State of Gujarat,

Notice through : District Government Pleader shree,
District Government Pleader Office,
Vanthali.

APPEARANCES:

Mr.D.R.Abhani, L.A. for the applicant.

Mr.J.M.Devani, Ld.A.P.P. for the State.

**Subject : CRIMINAL REVISION APPICATION UNDER
SECTION 438 & 440, of THE BHARATIYA
NAGARIK SURAKSHA SANHITA, 2023,**

-: J U D G M E N T :-

- 1) This Revision application is filed under Section 438 & 440 of the Bharatiya Nagarik Suraksha Sanhita (hereinafter

referred to as “B.N.S.S.”) by the applicant against the order dated 12/11/2025, passed in discharge application. The present applicant/accused no.3 is facing trial of Criminal Case No.288/2017 pertaining to offence of Section 465, 467, 468, 471, 120(B) of I.P.C. registered with Manavadar Police Station vide C.R. No. I 34/2010. During the trial, the applicant has produced discharge application under section 250, 262 of B.N.S.S. at Exh.99 in Criminal Case no. 288/2017 before the Ld. Additional Chief Judicial Magistrate, Vanthali. By the impugned order discharge application of the accused no.3 was rejected by Ld. Trial Court.

- 2) Being aggrieved and dissatisfied by the impugned order applicant/accuse no.3 has filed the present Criminal Revision Application and stated that the Ld. trial court committed serious errors of law and fact by refusing discharge despite the absence of any prima facie material against him. According to the applicant, neither the FIR nor the charge-sheet, witness statements, nor documentary evidence disclose any involvement of Accused No. 3 in the alleged offences. The Ld. trial court allegedly ignored the applicant's written and oral submissions, documentary evidence (Marks 102/1 to 102/3), and several binding precedents cited in support of discharge. It is further stated that a principal contention is that the applicant was merely a broker and had no knowledge of the alleged fraudulent transactions. It is also stated that the documentary evidence relating to cotton bale transactions, including bills, bank statements and business records, allegedly demonstrates that

the cotton bales dealt with by the applicant bore different press numbers from those mentioned in the FIR, thereby disproving any connection with the alleged offence. The applicant submits that the Ld. trial court failed to appreciate these documents and instead recorded findings contrary to the record.

- 3) The applicant further states that the Ld. trial court relied upon Supreme Court judgments without granting an opportunity to address their applicability and misapplied those decisions to the facts of the present case. It is also stated that the Ld. Trial court ignored judgments relied upon by the defence and failed to assign any reasons for not following the legal principles laid down therein. It is also stated that Ld. trial court proceeded on presumptions rather than evidence, ignored material contradictions in the prosecution case, and failed to apply the settled principles governing discharge. The applicant asserts that there is no prima facie evidence showing his participation in any conspiracy, cheating, forgery or criminal breach of trust, and therefore continuation of the prosecution would amount to abuse of the process of law. Accordingly, the applicant prays to set aside the order dated 12.11.2025 rejecting the discharge application and also prayed to allow the discharge application and discharge Accused No. 3 from Criminal Case No. 288/2017. It is further prayed to stay further proceedings of the trial pending disposal of the revision.
- 4) Notice of the present application is served upon opponent and on behalf of the State, Ld.A.P.P. has appeared and opposed the present application and prayed to reject the

present Revision Application.

- 5) Ld. Advocate for the applicant has produced written argument vide Exh.7 and mostly argued as per his application at Exh.1 and relied on the judgments cited in the written argument. The said authorities were duly considered while adjudicating the present revision.
- 6) Thus, considering the submissions and looking to the documents available on record and in view of the submissions of the Ld. Advocates of the parties, the following points have arisen before me for the determination of this revision application:

-:: POINTS FOR DETERMINATION ::-

1. Whether the impugned order passed by the Ld. Additional Chief Judicial Magistrate, Vanthali dated 12-11-2025 below discharge application preferred by the present applicant, which is under challenge in this Revision Application, is against the law and perverse, and requires intervention and modification?
 2. What order?
-
- 7) My findings on the above issues are as under:-
 - (1) In the Negative.
 - (2) As per final order.
 - 8) I have heard the Ld. Advocate for the applicant as well as Ld. A.P.P. for the opponent. I have also considered the documentary evidence produced on record and case papers of the Criminal Case no.286/2017.

-:: Reasons ::-

POINT Nos.1 and 2 :-

- 9) So far as the revisional jurisdiction of this Court is concerned, it is well settled that the Revisional Court should ordinarily be slow to interfere with an order passed by the Court below while exercising judicial discretion. Interference is warranted only in exceptional circumstances where, prima facie, the impugned order causes prejudice to a party, reflects a total misconception of facts or law, or where a procedural irregularity has resulted in a flagrant miscarriage of justice.
- 10) Keeping in view the aforesaid statutory provisions and the limited scope of revisional powers, this Court has carefully examined the impugned order dated 12/11/2025. The present revision has been filed under Section 438 of BNSS.
- 11) It is the contention of the applicant that neither the FIR nor the charge-sheet, witness statements, nor documentary evidence disclose any involvement of Accused No. 3 in the alleged offences. But upon an independent examination of the complaint, the charge-sheet and the material collected during the course of investigation, this Court finds no infirmity in the conclusion reached by the learned Trial Court while declining to discharge the applicant. The gravamen of the prosecution case is not that the present applicant had himself forged any document or prepared false invoices, but that he was an active participant in the alleged criminal conspiracy whereby cotton bales entrusted for delivery to the consignee mills named in the invoices were deliberately diverted to other mills through fabricated delivery records and the sale proceeds were allegedly misappropriated instead of being remitted to the

complainant. Thus, the prosecution attributes to the applicant a role founded upon his alleged participation in the conspiracy and the consequent acts committed in furtherance thereof, rather than upon the execution of forged documents in his individual capacity.

- 12) The contention that the applicant was not specifically named in the original complaint does not, at this stage, demolish the prosecution case. In offences involving criminal conspiracy, direct interaction between every conspirator and the complainant is not an indispensable requirement. The existence, nature and scope of the alleged conspiracy are matters which ordinarily emerge from the cumulative effect of the evidence adduced during trial and not merely from the initial complaint.
- 13) The record further reveals that the prosecution has relied upon the statements of several witnesses, namely Bhikhuji Tapuji Parmar dated 07/07/2010 & Roopsinh Vardisingh Purohit dated 06/09/2010. A prima facie reading of their statements indicates that they were familiar with the applicant as a person engaged in the supply of cotton bales; that he had personally delivered consignments to various mills, produced the accompanying bills, received cheques towards the sale consideration. According to the prosecution, the consignments supplied through the applicant were covered by bills which form part of the alleged fraudulent transactions. At this preliminary stage, these statements constitute material connecting the applicant with the transactions under investigation and cannot be discarded altogether.

- 14) Although the applicant has asserted that he acted merely as a commission agent or broker having no role beyond introducing sellers and purchasers, the material collected during investigation prima facie indicates a participation in the movement and delivery of the goods and in the collection of the corresponding payments. Whether such conduct ultimately establishes his complicity in the alleged conspiracy or whether it is capable of an innocent explanation are issues that require appreciation of evidence during trial and cannot be conclusively adjudicated while considering an application for discharge.
- 15) The jurisdiction of the Court at the stage of discharge is confined to examining whether the material placed by the prosecution discloses sufficient grounds to proceed against the accused. A careful evaluation of the evidentiary value of the statements or a determination of the probable defence is impermissible at this stage. Since the material on record raises a prima facie case warranting a full-fledged trial, no error, illegality or perversity is found in the order of the learned Trial Court refusing discharge.
- 16) Therefore, in the considered opinion of this Court, though the order passed by the learned Trial Court does not suffer from illegality warranting outright interference.
- 17) So, in the present revision application, the applicant has challenged the legality and validity of the impugned order passed by the Ld. Additional Chief Judicial Magistrate, Vanthali, and from my above discussion, I do find substance or merits in the present revision and hence, I reply the **Point No.1 In Negative and pass the following order towards**

Point No.2:

-: ORDER :-

1. The present revision application is hereby **rejected**.
2. The impugned order dated 12/11/2025 passed in Criminal Case No.288/2017 by the learned Additional Chief Judicial Magistrate, Vanthali, below the discharge application of the present applicant, in connection with the offence registered with Vanthali Police Station vide C.R. No.I 34/2010, is hereby confirmed.
3. The certified copy of this order along with original record of Criminal case be sent to the Ld. Additional Chief Judicial Magistrate, Vanthali.

Pronounced in the open Court on this 29th day of July,
2026.

Date:29/07/2026
Place:Vanthali

(Salimbhai Babulal Mansuri)
3rd Additional Sessions Judge
Vanthali.
UIC No.GJ00698