

FILED ON	:	09/03/2026		
REGISTERED ON	:	09/03/2026		
DECIDED ON	:	13/03/2026		
DURATION	:	YY	MM	DD
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Ex.____

**IN THE COURT OF 4TH ADDITIONAL SESSIONS JUDGE,
GANDHIDHAM-KACHCHH.**

CRIMINAL MISC. APPLICATION NO. 177/2026

Appellant : **Kirshorbhai Dayabhai Patel (Limbani)**
Proprietor of M/s. Karma Bhakti Timbers
 Age : 56 years, Occupation : Business,
 Residing at Plot No. 76/77, Survey No. 222,
 Uma Nagar, Meghpar-Borichi,
 Taluka : Anjar-Kachchh,
 Originally resident of Dholiyakampa,
 Iqbalgarh, Banaskantha.
 (At present in Judicial Custody)

V E R S U S

Respondents : (1) **Jentilal Hansraj Patel**
Proprietor of Kasturba Impex,
 Residing at Plot No.12,
 Survey No. 59,
 Bh. Reliance Petrol Pump,
 Meghpar-Borichi,
 Taluka : Anjar-Kachchh.

(2) **The State of Gujarat**
Through the Ld. APP,
Gandhidham-Kachchh.

Appearance :-

Ld. Advocate Mr. C. K. Prajapati for the Appellant.

Ld. Advocate Mr. R. K. Ruparel, for the the Respondent No.1.

Mr. S. G. Rana, the Ld. APP for the respondent No. 2 – State.

: J U D G M E N T :

1. The applicant has challenged the order passed by the Ld. 2nd Additional Chief Judicial Magistrate, Gandhidham-Kachchh, by filing Criminal Appeal and present application is filed for condonation of delay in filing criminal appeal against the impugned Judgment dated 23/01/2025 passed by Learned 2nd Additional Chief Judicial Magistrate, Gandhidham-Kachchh in Criminal case No. 63/2021 filed by the respondent No. 1/complainant u/s 138 of the NIAct and thereby sentence for imprisonment for 1(One) Year and pay compensation of Rs. 20,96,010/- to the complainant within 60 days.
2. The ld. Advocate for the applicant has argued that the judgment came to be pronounced on 23/01/2025, wherein, the applicant is held guilty for offence u/s 138 of the NIAct and sentence for imprisonment for 1(One) Year and pay compensation of Rs.

20,96,010/- to the complainant within 60 days. That appeal is supposed to be filed within 30 days but the appeal could not be filed by the applicant for the reason that applicant is not informed by his Advocate. He has further argued that the order dtd. 23/01/2025 was passed by the Ld. Trial Court and at time of pronouncement of the judgment, the applicant was not present and warrant was issued against the applicant and sent the applicant into judicial custody and since then the applicant is in judicial custody. It is further submitted that due to the above reasons, the applicant was arrested and he is in judicial custody. The criminal appeal could not be filed within time and there is delay of 380 days, for which present application is filed by the applicant. The learned advocate has prayed to allow the application and condone the delay in filing criminal appeal. The delay application is supported by an affidavit.

3. The Ld. Advocate for the respondent No. 1 has filed Written Objection vide Exh: 7 and has objected against the grant of the present delay condone application. The Ld. APP for the opponent No. 2 - State has submitted to pass appropriate order.
4. The learned Trial Court has passed the impugned order under section 138 of the NIA Act. The said order

was not challenged within time and therefore, there is delay in filing criminal appeal for which present application is filed by the Applicant. That on the pronouncement of the judgment on 23/01/2025, the applicant was not present and the Ld. Trial Court issued warrant and sent the applicant into judicial custody and since then the applicant is in judicial custody. It appears that the reason shown by the applicant is genuine and considering the fact mentioned in the application, the said delay application is required to be considered. The Ld. APP for the respondent No. 2 - State has submitted that necessary order may be passed. The Ld. Advocate for the respondent No. 1 – complainant has objected the present delay application. Moreover, as per basic principles of law, all the matter should be decided on merits instead of rejection of the same on technical grounds and liberal approach is required to be taken while considering the delay application. Hence, following order is passed :

:: O R D E R ::

- (1) The present application being Cri.M.A. No. 177/2026 is hereby Allowed.
- (2) The Delay in filing criminal appeal against the dated 23/01/2025 passed in Criminal case No. 63/2021 by the Ld. 2nd Additional Chief Judicial Magistrate, Gandhidham-Kachchh, is condoned.

- (3) Registry is hereby directed to register the criminal appeal of the applicant and place before the concerned court.
- (4) Both the parties are hereby directed to remain present before the Court on the date of hearing.
- (5) That applicant is hereby ordered to be directed to pay the cost of Rs.20,000/- be paid to the complainant. After the payment of cost amount, appeal should be registered.

Pronounced in the open court today on this **13th** day of **March, 2026**.

Place: Gandhidham.
Date : 13/03/2026

(A. M. Memon)
4th Additional Sessions Judge,
Gandhidham- Katchchh.
Code No. GJ-00674