

Criminal Revision Application No.4/2026**:- Order below application at Exhibit-8:-**

- [1] This is a stay application submitted on today by the learned advocate Shri S. K. Chhaya on behalf of the applicant. Read the application. Perused the record. Heard the learned advocate Shri S. K. Chhaya for the applicant and learned Public Prosecutor Shri V. C. Jani for respondent No.1 State of Gujarat as well as learned advocate Shri K. N. Goswami for the respondent No.2.
- [2] It has been averred by the applicant that the applicant/accused had filed an application seeking his discharge from the charges leveled against him before the learned Trial Court vide application at Exhibit-4 in Criminal Case No. 2244/2021, which the learned Trial Court rejected on 13/11/2025 and against the said impugned order dated 13/11/2025, the applicant has filed the present Criminal Revision Application. It has been further averred that since this Revision Application is pending before this Court, if the proceedings before the learned Trial Court are not stayed, the learned Trial Judge will proceed to frame charges against the applicant/accused, causing him greater hardship.
- [3] As against that, the respondents have submitted that, the case of the prosecution is filed against the accused under Section - 120 (B), 406, 420, 465, 467, 468, 471 of Indian

Penal Code and the police has filed charge-sheet before the learned trial Court. It is further stated that, since the matter is an old matter and the applicant/accused has belatedly come before this Court, no stay can be granted to him.

- [4] It appears that the learned Trial Judge has rejected the application at Exhibit-4 filed by the applicant for discharge, only on the ground that, as per the case of the prosecution, all the accused conspired with each other and committed the offence, and Section 120B of the IPC is also added and, therefore, he cannot be discharged from the charges leveled against him. When Section 120B of the I.P.C. is applied, there cannot be direct evidence of conspiracy because conspiracy is always hatched in secrecy remaining behind the curtain and there cannot be any direct evidence of the same. Therefore, without recording evidence in the matter, it cannot be said that there is no prima facie case made out against the applicant/accused. Even otherwise, Section-10 of the Evidence Act says that, where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, **anything said, done or written by any one of such persons in reference to their common intention**, after the time when such intention was first entertained by any one of them, **is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing**

that any such person was a party to it.

- [5] So far as the framing of charges against the applicant / accused, is concerned, this Court would like to quote certain judgments of Hon'ble Supreme Court. The Hon'ble Supreme Court, has in the matter of *Superintendent & Remembrancer of Legal Affairs, West Bengal vs. Anil Kumar Bhunja, reported in AIR 1980 SC 52*, in para-18 held and observed that, even a strong suspicion about the commission of offence is sufficient for framing charge against the accused. Similarly, the Hon'ble Supreme Court has, in the case of *G. B. Rathod vs. State of Gujarat, reported in 2003 (3) GLR 2656*, held and observed that, the charges can be framed even when the material indicates strong suspicion about the complicity of the accused.
- [6] Therefore, this Court is of the considered opinion that no stay order is required to be passed, as the matter pertains to the year 2021 and is very old. Not only that, the offence was registered on 21/10/2018. Since the dispute is an old one, the proceedings are not required to be stayed by this Court. Over and above, it is to be noted that the complaint was lodged in the year 2018 and the present applicant/accused was added as a co-accused by the police after two years. Since the last three years, the application at Exhibit-4 was pending before the learned Trial Court; the said application was submitted before the learned Trial Court

on 16/06/2022, which came to be decided only on 13/11/2025. Therefore, the present application seeking stay of the proceedings is not required to be granted. Hence, the same is dismissed.

Order dictated, signed and pronounced in the open Court today on this 17th day of February, 2026.

Place :- Morbi
Date :- 17/02/2026

(P. V. Shrivastav)
Sessions Judge,
Morbi
Judge Code GJ00372

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