

GJMR010004062026



ORDER BELOW EXH. 5 IN CRIMINAL APPEAL
NO.37/2026

- 1) Heard the learned Advocate for the appellant. The application filed by the appellant has been perused, along with the copy of the judgment and order dated 08.09.2025 passed by the learned 2nd Additional Senior Civil Judge, Morbi, in Criminal Case No. 2368/2024. The present application has been preferred seeking suspension of the order of sentence passed by the learned Trial Court, Morbi, in the aforesaid criminal case, pending final disposal of the appeal
- 2) On dated 23.02.2026, the learned Advocate for the respondent endorsed below Exh. 5 that the respondent has no objection to the grant of bail to the appellant, provided that the appellant deposits 20% of the cheque amount before this Hon'ble Court.
- 3) Thereafter, the learned Advocate for the appellant submitted a pursis at Exh. 7 stating that 20% of the amount, i.e., Rs. 4,20,540/-, has been deposited before this Hon'ble Court. Further, vide Exh. 8, a request was made to permit furnishing of cash surety at the time of granting bail, as the appellant is not a resident of the State of Gujarat, which is granted by this Court.
- 4) The appeal memo and the judgment passed by the learned

Trial Court have been carefully perused. Prima facie, it appears that the appellant has been in custody for a considerable period. The present appeal involves mixed questions of law and fact, and its final disposal is likely to take time. Therefore, in view of the provisions of Section 389 of the Code of Criminal Procedure, 1973, an appropriate order is required to be passed.

- 5) Further, in view of Section 148 of the Negotiable Instruments Act, 1881, this Court is empowered to impose suitable conditions while suspending the sentence. At this stage considering the provision of Article-21 of the Constitution of India, when question of personal liberty of the person is required to be considered the Hon'ble Supreme Court has specifically stated in so many judgments that bail is rule and jail is exception and having regard to the nature of proceedings under the Negotiable Instruments Act, which are quasi-civil and quasi-criminal in nature, this Court finds that the question of personal liberty deserves to be considered in favour of the appellant–accused. Hence, in the interest of justice, the following order is passed

ORDER

1. The order of sentence dated 08.09.2025 passed by the learned Trial Court, Morbi, in Criminal Case No. 2368/2024 is hereby suspended till the final disposal of the present appeal.
2. The appellant–accused is ordered to be released on bail

upon furnishing a cash surety of Rs. 25,000/- and a personal bond of the like amount before this Court, subject to the following conditions:

Conditions:

- Appellant shall remain present on each and every date of appeal.
- Appellant shall surrender his passport within seven days of furnishing bail and if he does not hold a passport shall file an affidavit in this regard.
- Furnish his address as well as address of the surety along with authenticated proof at the time of execution of bond, and shall not change his address without prior permission of the court.
- A copy of this order be sent to the Ld. Trial Court, immediately.

Signed and pronounced in the open Court today on this 24th February, 2026.

Place :- Morbi
Date :- 24/02/2026

(Prathamesh Vinodchandra Shrivastav)
Principal District & Sessions Judge,
Morbi
Judge Code GJ00372

KVA