

IN THE COURT OF SESSIONS JUDGE, MORBI.

GJMR010015492026

**Criminal Appeal No.122/2026****-:: Order Below Application at Exhibit-5 ::-**

- 1) The appellant through his Learned Advocate Mr. P. D. Manseta, has preferred the present appeal against the conviction order passed by the Court of Learned Additional Judicial Magistrate First Class at Morbi, in Criminal Case No.5565/2022, on 27/04/2026.
- 2) The appellant herein has filed the present application at Exhibit-5, for releasing him on regular bail pending the appeal, and also prayed to suspend the judgement and order of the Learned Trial Court, till final disposal of this appeal.
- 3) Upon due service of notice, the opponent No.1 has appeared before this Court through his Learned Advocate Ms. M. M. Patel, and resisted the present application.
- 4) In the present application, it is submitted by the appellant / accused that, the Learned Additional Judicial Magistrate First Class at Morbi has convicted him for the offence punishable u/s.138 of the Negotiable Instruments Act, and sentenced him to undergo simple imprisonment for a period of two years and further imposed fine of Rs.20,000/-, being double the amount of disputed cheque, and out of the amount of fine, the cheque amount of Rs.10,000/- along with interest @ 9% p.a. on the cheque

amount, be paid to the complainant, and in default of payment of the fine, the accused shall undergo further simple imprisonment for a period of ninety days. It is submitted that, thereafter, the appellant applied for bail during the appeal period, which was granted by the Learned Trial Court and he was released on bail till appeal period by the Learned Trial Court on 27/04/2026. It is further stated that, the appellant is residing at the address shown in the application and therefore, he may not run away or abscond during the pendency of appeal. It is further submitted that, the appellant has filed the present appeal against the conviction order passed by the Learned Trial Court and therefore, it is requested to grant a fresh bail to the appellant / accused, till the final disposal of the appeal. It is further requested to suspend the judgment and order of the Trial Court.

(4.1) In support of his submissions, the Learned Advocate for the appellant Mr. P. D. Manseta has also produced his written arguments at Exhibit-9 wherein, he has mainly submitted that, the appellant / original accused belongs to a poor family and is the sole earning member supporting a family of seven, including his wife, three children, elderly mother, and younger brother, with a monthly income of only Rs.20,000/-, from which he also pays the housing loan EMI. It is further submitted that, the complainant has filed total Five appeals (Criminal Appeal Nos. 122/2026 to 125/2026) against the appellant, involving a total cheque

amount of Rs.1,15,000/-, and due to his severe financial hardship, he is unable to deposit the statutory 20% amount. The Learned Advocate Mr. P. D. Manseta, in support of his arguments, has placed reliance on the judgment of the Hon'ble Supreme Court in ***Jambu Bhandari vs. M. P. State Industrial Development Corporation Ltd. & Ors., reported in 2023(0) AIJEL-SC 72540*** & also placed reliance on the judgement of the Hon'ble Madurai Bench of Madras High Court, in the case of ***Shajin vs. Gopaldas, decided in CRL OP (MD) No.9164 of 2026 on 07/05/2026***, which recognize that exemption from such deposit may be granted in appropriate cases. It is further submitted that, the appellant is already on bail, and is willing to comply with any conditions imposed by this Hon'ble Court. It is, therefore, respectfully prayed that the Appellant be exempted from depositing the 20% amount and be granted such other reliefs as this Hon'ble Court may deem fit in the interest of justice.

- 5) Heard the Learned Advocates appearing on behalf of the parties and on perusal of the record, it is admitted fact that, the Court of Learned Additional Judicial Magistrate First Class at Morbi, has convicted the appellant / accused for the offence punishable u/s.138 of the Negotiable Instruments Act, and sentenced him to undergo simple imprisonment for a period of two years and further imposed fine of Rs.20,000/-, being double the amount of

disputed cheque, and out of the amount of fine, the cheque amount of Rs.10,000/- along with interest @ 9% p.a. on the cheque amount, be paid to the complainant, and in default of payment of the fine, the accused shall undergo further simple imprisonment for a period of ninety days. The appellant / accused is permanently residing at the address shown in the application and he has assured the Court that, if he is released on regular bail, he will abide by the conditions imposed by this Court. It further appears that, the Learned Trial Court passed the conviction order on 27/04/2026 and sentenced the appellant / accused for less than three years of imprisonment. Thus, in view of the above, this Court finds it appropriate to exercise its discretion in favour of the appellant/accused. So far as the arguments advanced by the learned Advocate for the appellant regarding exemption from depositing 20% of the fine imposed by the learned Trial Court are concerned, this Court is of the opinion that, at this stage, considering that the original complaint was filed in the year 2022 and that the learned Trial Court has already convicted the appellant under Section 138 of the Negotiable Instruments Act, the complainant has not yet received the benefit of the said judgment. The object of Section 148 of the Negotiable Instruments Act is to safeguard the interest of the complainant during the pendency of the appeal. Mere filing of an appeal does not entitle the appellant to exemption from the statutory deposit. In the absence of

any exceptional circumstances, this Court does not find it appropriate to exempt the appellant from depositing 20% of the fine imposed by the learned Trial Court. Therefore, in the interest of justice and in view of the provisions made u/s.430(1) of B.N.S.S., following order is passed.

-:: ORDER ::-

- [1] The present application at Exhibit-5, filed by the appellant, **Jaypalsinh Gulabsinh Jadeja**, is hereby allowed.
- [2] The execution of the conviction order, dtd.27/04/2026, passed by the Learned Additional Judicial Magistrate First Class at Morbi, in Criminal Case No.5565/2022, is hereby ordered to be suspended till final disposal of this appeal.
- [3] The appellant/accused, namely, **Jaypalsinh Gulabsinh Jadeja**, is ordered to be released on bail, till final disposal of this appeal, on furnishing a bond of **Rs.25,000/- (Rupees Twenty Five Thousand Only)**, with his recent self-attested Photograph and one surety of alike amount, before this Court, on following conditions :-
 - (i) The appellant/accused shall deposit in this Court, 20% of the fine as mentioned in order of Learned Trial Court, within 10 days of this order.
 - (ii) The appellant/accused shall remain present before the Court regularly, till the final disposal of the appeal.
 - (iii) The appellant shall provide his residential address and Mobile Number at the time of execution of a

bond and, shall not change his residence & Mobile Number without the prior permission of this Court till final disposal of the appeal or till further orders;

[4] A copy of this order be sent to the Learned Trial Court, immediately.

Signed and pronounced in the open Court today on this 9th day of June, 2026.

Place :- Morbi
Date :- 09/06/2026

(K. R. Pandya)
I/c. Sessions Judge,
Morbi
Judge Code GJ00739

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