

GJPM040038202025



CRMA No.379 of 2025
ORDER BELOW APPLICATION OF EXH.1

1. Read the application, heard the Ld. advocate of the complainant. Perused the record of case.

2. The complainant has filed the present application for condonation of delay as caused for filing the complaint against the accused under Section 138 of the Negotiable Instrument Act. The learned Advocate for the complainant submitted that legal notice was duly served to the accused and the complainant has to file the complaint before the Court within 30 days after 15 days of receipt of the notice, but the complainant has not filed this complaint within such stipulated time and the delay of 3 days caused in filling such complaint due to his ill health and due to unavoidable circumstances. If the present application is not allowed than the complainant has suffered serious damage, therefore, complainant has prayed to allow the present application.

3. Considering the submissions advanced by the learned advocate for the complainant, I am of the view that the complainant has shown sufficient cause and reasons to condone the delay as caused for filing the present complaint under Section 138 of the Negotiable Instrument Act against the accused. Not only that even while considering the ratio as laid down by the

Hon'ble Supreme Court in the case of *Birendra Prasad Sah v. State of Bihar and Anr.*, reported in AIR 2019 SC 2496 and the reason as shown by the complainant in the present application, I am of the view that the complainant has shown sufficient cause and reasons as envisaged under Section 5 of the Limitation Act, I am also of the view that if the present application for condonation of delay will order to be allowed then it will not cause any injustice to the right and interest of the accused. Therefore, considering the above facts and circumstances and ratio as laid down and direction as given by the Hon'ble Supreme Court, I am of the view that the complainant has shown the sufficient cause to condone delay for filing the complaint under Section 138 of the Negotiable Instrument Act. Hence, in the large interest of justice I pass the following order:

ORDER

1. The present Application is hereby allowed.
2. Having a reference to the complaint it appears that, the accused is residing beyond the jurisdiction of this Court. Thereby, taking into consideration Sec. 225 of Bharatiya Nagarik Suraksha Sanhita, 2023, as well as Letter No. A.705/2008 dated 22/04/2020 of Hon'ble Gujarat High Court, for purpose appropriate adjudication upon the complaint, this Court finds it appropriate to adjourn the matter for inquiry to be made by this Court. In view of this, the Court is passed preliminary order upon the present complaint. The matter is hereby adjourned for inquiry to be made by this Court.

- 3 The Registry is hereby directed to take the matter in criminal inquiry register.
- 4 Later, the matter shall be placed for hearing on Dt: 02 / 05 / 2026
5. No order as to costs.

Pronounced and signed in the open court today i.e. 23rd of April, 2026.

Date : 23.04.2026.
Place: Halol.

V. T. Desai

[Jenifar Kantilal Christian]
Addl. Chief Judicial Magistrate,
Panchmahal at Halol.
(Code No.GJ01107)