

Order below Exh.1
in
Criminal Misc. Application No. 215/26

1. The present application is preferred by the applicant herein who is the original accused in Criminal Case No. 4/2025. In the said case, the present applicant is convicted by the Ld. Judicial Magistrate First Class Court, Upleta for the offence punishable under Section 138 of the Negotiable Instruments Act and, invoking the provisions of Section 278(2) and Section 392 of BNSS, directed to undergo simple imprisonment for One year and further ordered to pay a fine of Rs. 1,19,485/- which is directed to be paid to the complainant as compensation under Section 395(3) of BNSS. The said Judgment and order of conviction is passed by the Ld. Trial Court on 16-05-2026 in the absence of the applicant, whereby the Ld. Trial Court has cancelled the bail bonds and issued a Non-Bailable Warrant against the applicant.
2. Being aggrieved with the said Judgment & order, the original accused who is the applicant herein is willing to prefer the appeal, but a delay of **4 (four) days** has occurred in preferring the appeal. Therefore, the present application is preferred praying to condone the said delay and to permit the applicant to file the appeal against the Judgment

of conviction.

3. On institution of the present application under Section 5 of the Limitation Act, notices were duly issued to the opponents. The Opponent No. 1 – State of Gujarat appeared through the learned Assistant Government Pleader (A.G.P.), whereas Opponent No. 2 – Rajkot District Co-operative Bank Ltd., appeared in person before this Court.

The applicant has preferred this application seeking condonation of a 4-day delay in filing the appeal against the judgment and order dated 16/05/2026 passed by the learned JMFC, Upleta in Criminal Case No. 4/2025 under Section 138 of the Negotiable Instruments Act. The applicant has submitted that the impugned judgment was passed in his absence, and he was subsequently arrested on 18/06/2026. He remained in judicial custody at the Sub-Jail, Dhoraji from 28/05/2026 under Upleta Police Station CR No. 11213064260308/2026 till he was enlarged on bail on 03/06/2026. Immediately upon his release, he was detained under the PASA Act and sent to jail. The applicant was eventually arrested in connection with the present matter while in custody and was served with a certified copy of the judgment only on 18/06/2026, causing a delay of 4 days as the prescribed limitation period had expired on 15/06/2026.

The opponent No. 2 – original complainant, has orally submitted that he has no objection if the application is allowed. Considering the fact that the applicant was continuously under judicial and preventive custody during the relevant period, sufficient cause has been established. Under these circumstances, and in view of the no-objection, without entering into the merits and technicalities of the case, the delay of 4 days is required to be condoned. Hence, the following order is passed in the larger interest of justice.

ORDER

1. The present application for condonation of delay is hereby allowed.
2. The registry is directed to register the Appeal, presented by the applicant.

Signed and Pronounced in the open Court today on this 23rd day of June, 2026.

Date : 23-06-2026

Place : Dhoraji

(Vaibhav Vasant Mondhe)
10th Additional Sessions Judge,
Dhoraji at Rajkot
Code No. GJ00852