

GJSK010012712025



IN THE SESSIONS COURT AT HIMMATNAGAR

Order below Exh. 4  
*IN*  
Criminal Appeal No. 196/2025

In the matter of

**Hareshbhai Kantibhai Rathod**

..... Appellant

**V/s**

**The State of Gujarat**

... Respondent

01. Present accused/appellant herein is original accused in Criminal Case No. 6551/2023 registered with learned 2<sup>nd</sup> Judicial Magistrate First Class, Himmatnagar (herein after referred to as "learned Trial Court"), wherein learned Trial Court has been pleased to hold guilty accused and passed an order of sentencing the convict herein by imposing TRC and fine to the tune of Rs.500/-. The verbatim the said sentences goes as follows:

*"The accused shall undergo a sentence till the rising of Court and shall pay a fine of Rs.500/- (Five Hundred).*

*The accused shall be subjected to simple imprisonment of 05 days if he fails to pay the fine."*

Being aggrieved by and dissatisfied with the impugned judgment, the present accused/appellant herein has preferred the present appeal under Section 415 of the Bharatiya Nagarik Suraksha Sanhita.

02. The accused/appellant herein has filed an application at **Exhibit-4** under Section 430 of Bharatiya Nagarik Suraksha Sanhita, praying to enlarge the appellant/accused on bail during the pendency of the present appeal and to suspend the implementation and execution of the order of the learned Trial Court.
03. A notice was issued to the State, upon which learned PP has appeared on behalf of the respondent/the State.
04. Having heard the learned Advocate for both the parties.
05. Accused/appellant herein has preferred the present appeal under Section 415 of the Bharatiya Nagarik Suraksha Sanhita and challenged the order of conviction and sentence. Since, appeal is a statutory right and non-grant of the present request would amount to frustrating the statutory right of preferring the appeal. The second criterion is that the first appeal being statutory right of the accused that must be looked through the prism of the circumstances which may bringing the conduct of the

convict herein on the record. The said part would be looked into from the standpoint of the fact that the convict herein seemed to be have been remained present in the trial court all throughout and the learned Advocate for the appellant herein assured that the convict herein shall regularly remain present, consequently, there is no circumstances, which allow to raise any doubt on this aspect. This brings in inclination to allow the present application under Section 430 of Bharatiya Nagarik Suraksha Sanhita. During the pendency of present appeal, impugned order of sentencing passed by the learned Trial Court deserves to be suspended, therefore, implementation and operation of the impugned order of sentence passed by the learned 2<sup>nd</sup> Judicial Magistrate First Class, Himmatnagar is hereby suspended, subject to following conditions :

**-:: O R D E R ::-**

01. This application is hereby allowed.
02. Order of sentences dated 23.05.2025 passed in Criminal Case No. 6551/2023 by learned 2<sup>nd</sup> Judicial Magistrate First Class, Himmatnagar, are suspended and the Appellant - accused is hereby enlarged on a bail during hearing and pendency of this appeal on submitting

personal bond of **Rs.15,000/- (Rupees fifteen thousand only)** and surety of like amount before this Court, subject to following conditions:

- 03.** (i) Appellant – accused shall invariably remain present before this Court on each hearing date;
- (ii) Appellant – accused shall cooperate in disposal of appeal and shall not prolong the proceedings;
- (iii) Appellant – accused shall not leave territory of Gujarat State without prior permission of Court;
- (iv) Appellant - accused shall submit his permanent Mobile number/s, which he shall not change without prior permission of this Court, and residential proof like Aadhar Card etc.
- (v) Breach of any of the above conditions shall lead to cancellation of the bail;
- 04.** Record and proceedings of Criminal Case No. 6551/2023 is hereby order to call for.

**Pronounced in the open Court on 20<sup>th</sup> June , 2025, under my hand and seal.**

Date: 20/06/2025  
Place: Himmatnagar

**(Kanubhai R. Rabari)**  
**Sessions Judge**  
**Sabarkantha at Himmatnagar**  
**UIC No. GJ00477**

Pramod S. Goyal\*\*\*