

GJSK010021022022



IN THE SESSIONS COURT AT HIMMATNAGAR

Order below Exh. 4

IN

Criminal Appeal No. 227/2022

In the matter of

Piyushbhai Ashokbhai Chaudhari

... Appellant

V/s

Vaghela Prakashkumar Laxmanbhai & Anr.

... Respondents

1. The present appellant has been convicted on 04.11.2022 by the learned Judicial Magistrate First Class, Prantij in Criminal Case No. 756 of 2018 filed under Section 138 of the Negotiable Instruments Act (in short "N.I. Act") wherein, the appellant - accused has been convicted with simple imprisonment of six months and ordered to pay Rs. 6,00,000/- (Rupees six lakhs only) as compensation to the complainant and to undergo simple imprisonment for 30 days if the compensation is not paid. Being aggrieved and dissatisfied by the impugned judgment, the present appellant has preferred the present appeal under Section 374 of the Criminal Procedure Code.
2. The appellant has filed an application at Exh. 4 under Section 389 of Criminal Procedure Code, 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.

3. Though notices were issued to the respondents, the respondent No. 1 neither appeared in person nor through his advocate and hence, the matter was proceeded accordingly.
4. I have heard learned advocate for the appellant Mr. N.R. Meer. He has stated that the learned Trial Court has committed an error in holding the accused guilty and has not properly appreciated the evidence produced on record and merely based on presumptions and assumptions, has convicted the accused and no opportunity has been given to the accused to defend himself by the learned Trial Court. That all these contentions deserve to be considered and the execution of the order of sentence, pending appeal be suspended and the accused be enlarged on bail during the pendency of appeal.
5. The offence under the Negotiable Instruments Act is compoundable and as per the record, the accused had remained on bail throughout the trial and there is a chance of settlement between the parties, keeping in mind the aforesaid fact and the provisions of law under Section 148 of the N.I. Act, I am inclined to allow the present application and pass following order:

:: O R D E R ::

1. This application is hereby allowed.

2. The order of conviction dated 04.11.2022 passed in Criminal Case No. 756/2018 by the learned Judicial Magistrate First Class, Prantij, is suspended and the appellant **Piyushbhai Ashokbhai Chaudhari** is hereby enlarged on bail on furnishing bond of Rs.15,000/- (Rupees fifteen thousand only) and surety of the like amount, subject to the following conditions:
- (i) The appellant-accused shall deposit an amount of **Rs. 60,000/- (Rupees sixty thousand only)** as per the provisions of Section 148(1) of the Negotiable Instruments Act in the first instance.
 - (ii) The appellant – accused shall cooperate in disposal of the appeal and shall not prolong the proceedings;
 - (iii) The appellant – accused shall submit the details of his permanent Mobile number, which he shall not change without the prior permission of this Court, and shall also submit the document of proof of his residential address.
3. A copy of this order be sent to the learned trial Court.
4. Call for record and proceedings of Criminal Case No. 756/2018 from the concerned Trial Court.

Signed and pronounced in open Court on this 03rd day of December 2022.

(Susan Valentine Pinto)
Sessions Judge
Sabarkantha at Himmatnagar
Code No. : GJ00416

//vms