

<i>Received on</i>	:	28.02.2026
<i>Registered on</i>	:	28.02.2026
<i>Decided on</i>	:	06.03.2026
<i>Duration</i>	:	Y M D
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**IN THE COURT OF THE 6th ADDITIONAL SESSIONS JUDGE
SURENDRANAGAR.**

Criminal Misc. Application No. 222 of 2026

Exh. 4

Ghansyambhai Bhojabhai Gamara
Age about 46 years, Occupation: farmer
Residing at: Maldhari chowk, old jail road,
Wadhavan, Dist. Surendranagar
(At present in Sub-Jail, Surendranagar)

...Applicant

Versus

1. GuKrupa Milk Producer Co.Ltd
Jayrajbhai Pratapbhau Sindhav
Address: Kankavati Park, B/h Rameshwar township
Dist.: Ratnpar, Wadhvan, Surendranagar.
2. The State of Gujarat ...Opponents

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Learned Advocate Mr. K.V.Shah for the Applicant.

Learned Advocate -

Learned G.P. Shri M.P. Sabhani for opponent No.2-State.

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JUDGMENT

Facts of the original case:-

1. The complainant/present Opponent No.1 filed a complaint under Section 138 of the Negotiable Instruments Act, 1881, against the

present applicant, which was registered as Criminal Case No. 1995 of 2024. By the judgment dated 19.08.2025, the present applicant was convicted. The applicant now seeks to challenge the said judgment by preferring a criminal appeal, and hence, the present application is being filed.

Facts of the present application:-

2. It is most respectfully submitted that the Hon'ble Trial Court, vide judgment dated 19.08.2025 passed in Criminal Case No. 1995/2024, was pleased to convict the applicant (original accused) for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentenced him to undergo simple imprisonment for a period of one year and further directed him to pay compensation of Rs. 71300/- to the complainant, failing which the applicant was to undergo additional simple imprisonment for a period of three months. It is submitted that the applicant had voluntarily remained present before the Hon'ble Trial Court during the initial stages of trial and had engaged an advocate; however, due to the serious illness of a close family member, the applicant could not remain present before the Trial Court on subsequent hearing dates. As a result, the matter proceeded ex parte, and the applicant was deprived of a proper opportunity to defend himself. It is further submitted that the judgment was pronounced in the absence of the applicant, and he was unaware of the date of pronouncement, having come to know about the issuance of a warrant for execution of sentence only at a later stage. Being a layperson with limited knowledge of legal procedures, the applicant was unable to take timely legal steps to challenge the said judgment, and as a result, a delay of **163** days has occurred in

filing the present appeal. Thereafter, the applicant was taken into judicial custody and committed to Surendranagar Sub-Jail, where he continues to remain in custody. Being aggrieved and dissatisfied with the said judgment and sentence, and having substantial and meritorious grounds in appeal, the applicant has now preferred the present appeal before this Hon'ble Court. In the interest of justice and to afford the applicant a fair opportunity of hearing, it is most humbly prayed that this Hon'ble Court may be pleased to condone the delay of **163 days** caused in filing the appeal. Therefore, the present application is being filed for condonation of delay, in the interest of justice.

Reply of other side and arguments :-

3. Notice served to the Opponent No.1 / Original Complainant but he is not remain present before the court. It is, therefore, respectfully prayed that appropriate orders may be passed in accordance with law.

REASONS :-

4. So far as condonation of delay is concerned, the judgment of Hon'ble Apex Court in the case of **B. Madhuri Goud V/s. Damodar Reddy** which is reported in **2012 CJ (SC) 1413** comes into way and wherein the Hon'ble Apex Court has laid down the ratio that;
 - (a) Ordinarily a litigant does not stand to benefit by lodging an appeal late.
 - (b) Refusing to condone delay can result in a meritorious matter, being thrown out at the very threshold and cause of justice being defeated.
As against this when delay is condoned the highest that can happen is

that a cause would be decided on merits after hearing the parties.

- (c) Every day's delay must be explained does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay ? The doctrine must be applied in a rational common sense pragmatic manner.
 - (d) When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have right in injustice being done because of a non-deliberate delay.
 - (e) There is no presumption that delay is occasioned deliberately, or on account of culpable negligence or on account of malafides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.
 - (f) It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.
5. Therefore, considering the above dicta in the case of **B. Madhuri Goud** of the Hon'ble Apex Court and to have result on merits and in the interest of substantial justice, the delay which is caused is required to be condoned. Moreover, granting of delay won't prejudice the rights of the other-side as they will get an opportunity to led their case. Moreover, granting of delay won't prejudice the rights of the other-side as they will get an opportunity to led their case. Moreover, the applicant was unaware of the outcome of the case and due to

ignorance of provisions of law, the delay has been caused and therefore it cannot be said that the applicant is not conversant with the period of limitation and therefore cost is required to be imposed. Moreover, it transpires that at the time of pronouncement of verdict, accused was absent, thereafter, by way of warrant he was arrested and since then he is in custody and he is under the execution of the conviction and it transpires that one year imprisonment was awarded and therefore, considering all the said circumstances and considering said delay, substantial amount is required to be imposed because the applicant have knocked the doors of appeal Court after delay of days which are stated above and considering the same, I pass the following order which is as under:-

ORDER

1. The delay which is caused to file this appeal is hereby condoned and the applicant/Accused shall deposit **Rs.2500/- (Rupees Two Thousand Five Hundred Only)**, with the District Legal services Authority, at Surendranagar, today. To deposit said amount is imposed as a condition precedent to have the benefit of composition of offence.

Pronounced in the open Court today
on this **6st day of March, 2026.**

Date: 06/03/2026
Place: Surendranagar

(J.V. Patel)
6th Additional Sessions Judge,
Surendranagar
Code No.GJ00960.