

Criminal Appeal No.02/2024**Order Below Ex.4**

1. The present application has been filed under section 389 of Criminal Procedure Code (hereinafter referred to as '**Code**' for short), wherein, a prayer for suspension of sentence has been made by the appellant/ originally accused.
2. The brief facts leading to filling of application at Exh.4 are that the appellant accused been convicted under section 135 read with 142 of Negotiable Instrument Act. The applicant has filed the enclosed appeal against the judgment and order of conviction passed by the learned Additional Chief Judicial Magistrate, Bardoli, District Surat in criminal case No.1752/2019 on 01/01/2024 by which learned Trial Court has held the applicant guilty for the offence under Section 135 read with 142 of NI Act and has awarded rigorous imprisonment of two years and directed him to pay fine of Rs.5,00,000/- is awarded to the complainant as compensation and in default, has awarded rigorous imprisonment of six months.
3. Ld. Advocate for the appellant-accused has submitted his

arguments in accordance with averments made in application at Exh.4.

4. Ld. APP for the State has prayed for rejection of the application on ground of seriousness of the offence.
5. I have heard both of them and perused the case carefully.
6. At the very outset it is worthwhile to mention here that the applicant-accused remained on bail during trial and nothing adverse has been brought to the notice of this Court as to if the applicant-accused may violate the order of suspension of sentence. Hence, by taking recourse to provisions of section 389(1) of the Code following order ensues:

ORDER

- (1) The present Application Exh.4 stands allowed subject to appellant/ originally accused submitting surety bond in sum of Rs.50,000/- with one surety of like amount subject to following conditions:
 - (A) The appellant(s)/ originally accused shall remain present before this Court regularly during pendency of present appeal.
 - (B) The appellant(s)/ originally accused shall submit

his/her/their mobile phone number and residence address along with authenticated documentary proof.

(C) The appellant-accused is directed to pay **20% amount of the compensation to the complainant** awarded by learned Trial Court in the impugned judgment within 60 days of passing of this order.

Yadi to be sent to the concerned learned Trial Court for necessary information and compliance of this order.

Pronounced in open court today on this 7th day of February, 2024.

Date : 07/02/2024
Place: Bardoli

[Sachin S.C. Sethi]
8th Addl. District & Sessions Judge,
Surat at Bardoli. UIC No.GJ01540.

PPS/KMC