

Criminal Appeal No.13/2024**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 138 of Negotiable Instrument Act. The applicant has filed the enclosed appeal against the judgment and order of conviction passed by the learned Judicial Magistrate First Class, Palsana, District Surat in criminal case No.2772/2022 on 09/04/2024 by which learned Trial Court has held the applicant guilty for the offence under Section 138 of NI Act and has awarded simple imprisonment of 01 year.
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 cheque amount since no compensation has**

been awarded by learned Trial Court in the impugned judgment within 60 days of passing of this order to the complainant.

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 23rd day of May, 2024.

Date : 23/05/2024
Place: Bardoli

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

PPS/KMC