

Order below Exh.5 in
Criminal Appeal No.127/2025

- [1] The present application has been filed by the appellant seeking suspension of sentence under Section 389 of Cr.P.C. and also release the appellant on bail. A perusal of Section 389 of Cr.P.C. reveals that encompasses the application filed on behalf of appellant.
- [2] It has been averred in the above-mentioned application that the appellant has challenged the impugned judgment of the Ld. Principal Senior Civil Judge and Additional Chief Judicial Magistrate, Bardoli, in Criminal Case No.671/2024, dated 04.07.2025, for the offence punishable u/s. 138 of the Negotiable Instruments Act, convicting him for rigorous imprisonment for two years and directed him to pay Rs.49,700/- is awarded to the complainant as compensation and in default, has awarded further rigorous imprisonment for 6 months. Therefore, he has prayed to suspend the sentence passed by the Ld. Principal Senior Civil Judge and Additional Chief Judicial Magistrate, Bardoli and also to release him on bail.
- [3] Learned Advocate for the appellant has submitted that the appellant has sufficient grounds to challenge the conviction and order of sentence and, therefore, he has preferred the present appeal against the said Order. It is submitted that the appellant is local resident of Surat district and has responsibility of his family and he will not flee. It is further submitted that he has no any criminal antecedents. Therefore, he has requested the Court to grant him bail till the final disposal of the present appeal and also to suspend the sentence passed against him.

- [4] I have heard the Learned Advocate and also perused the documents filed alongwith the bail application and it transpires that Ld. Principal Senior Civil Judge and Additional Chief Judicial Magistrate, Bardoli has convicted the appellant for two years. Consequently, final judgment came to be passed on 04.07.2025 and appellant/accused was convicted. Therefore, present application came to be filed.
- [5] Considering the fact that the accused has been convicted and sentenced by the Ld. Principal Senior Civil Judge and Additional Chief Judicial Magistrate, Bardoli for the offence committed u/s. 138 of the Negotiable Instruments Act, in consequence of conviction warrant issued against him. Therefore, he was arrested and he is in judicial custody. Ld. Advocate for the appellant has passed a Purshis vide Exh. 6 and stated that the matter has been compromised and 20% amount has been paid to the respondent by Phone Pay and the same was received by the respondent. Hence, it would be just and proper if the accused is released on bail till pendency of the appeal and the order of sentence is suspended during the pendency of present appeal. Hence, by taking recourse to provisions of section 430(1) of the Bhartiya Nagarik Suraksha Sanhita (BNSS) following order ensues:

ORDER

- (1) The present Application Exh.5 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 is directed to appear before the Appellate Court on each and every date of hearing.

(D) The bail bond to be executed before the concerned Court.

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

Signed and pronounced in the open Court today on **16th day of September, 2025** at Bardoli.

Date : 16/09/2025
Place: Bardoli.

Nareshkumar R. Jain
7th Additional Sessions Judge, Surat
at Bardoli
(Unique ID Code: GJ00582)