

Order below Exh.4
in
Criminal Appeal No.109/2025

- [1] The present application has been filed by the appellant seeking suspension of sentence under Section 430 of BNSS and also release the appellant on bail.
- [2] It has been averred in the above-mentioned application that the appellant has challenged the impugned judgment of the Ld. Additional Judicial Magistrate First Class, Bardoli in Criminal Case No.2326/2017, dated 03.07.2025, for the offence punishable u/s. 138 of the Negotiable Instruments Act, convicting him for simple imprisonment for two years and directed him to pay Rs.3,00,000/- is awarded to the complainant as compensation and in default of payment the accused to suffer further simple imprisonment for 7 days. Therefore, he has prayed to suspend the sentence passed by the Ld. Additional Judicial Magistrate First Class, 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 and has further submitted that he could not remain present before the learned trial court due to unavoidable circumstances, hence, present judgment came to be passed by the learned trial court in her absence. Therefore warrant came to be issued against him. He is in judicial custody. Therefore, he has requested the Court to grant her 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. Addl. Judicial Magistrate, Bardoli has convicted the appellant for two year. Consequently, final judgment came to be passed on 03.07.2025 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. Additional 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. 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. 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** awarded by learned Trial Court in the impugned judgment within 60 days of passing of this order in the trial Court.

(D) The appellant is directed to appear before the Appellate Court on each and every date of hearing.

(E) 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 **4th day of August, 2025.**

Date : 04/08/2025

Place: Bardoli.

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