

**IN THE COURT OF THE 21st ADDL. CHIEF JUDICIAL
MAGISTRATE AT SURAT.**

**Criminal Misc. Appln. No. 13896 of 2025
ORDER BELOW EXH.-1**

[1] The applicant has filed the present application under Sec. 142(b) of the Negotiable Instrument Act (*hereinafter referred to as 'the Act'*) for condoning the delay of 03 days caused in filing the complaint U/s. 138 of the Act.

[2] The process was issued, and has returned with endorsement of no such person found at the place.

[3] Heard, the Ld. Advocate for the complainant who have argued as per the delay condoning application. None for opponent has appeared to argue.

[4] At the out set, it is to be noted that the demand notice of 01.07.2025 U/s. 138(b) has been sent by R.P.A.D. on 04.07.2025 and in some cases has been served on 11.07.2025 and 12.07.2025, but, the process sent to accused no.1 has returned with endorsement of addressee left without instruction on 07.07.2025. Therefore, the complaint should have to be filed on or before 22.08.2025. But the present complaint has been filed on 25.08.2025. Therefore, the complaint has been filed after 03 days after the limitation period is over.

[5] The applicant/complainant has come with the facts that the delay was caused due to unavoidable personal and professional circumstances and family emergency in which the admission of son at Delhi and Chandigadh.

[6] *Hon'ble Supreme Court in case of H. S. Oberoy Build Tech Pvt. Ltd. and Ors. V/s. M/s. MSN Woodtech, S.L.P. (Criminal) No.2002/2025* have provided that in the cases of Negotiable Instrument Act, Limitation in cheque dishonor cases is a strict statutory mandate and is not a procedural formality and the discretion under Section-142(b) N. I. Act, cannot be exercised upon a formal application supported by cogent reasons. The Hon'ble Court provides that judicial orders must reflect a conscious recognition of delay and reasoned assessment of whether sufficient cause exist for

condonation rather than proceeding on assumptions. In the present case the complainant have taken the defence of non presence of complainant due to unavoidable personal and professional circumstances and family emergency in which the admission of son at Delhi and Chandigadh. Hence, seeking the guidelines by Hon'ble Supreme Court in the case of *H. S. Oberoy Build Tech Pvt. Ltd. and Ors. V/s. M/s. MSN Woodtech, (supra)* that if a proper reason has been sought for delay then the case of complainant to recover the due amount has also to be taken into consideration. Hence, it deems fit to allow the delay condonation application. Hence, following order is made below.

-:: ORDER ::-

1. Present application is allowed and the delay is condoned.
2. Matter be registered as Criminal Case. Issue summons to accused under Section-227 of BNSS, 2023, returnable on 25.08.2026. Summons be given "Dasti (by hand)" to serve the summons to the accused in all modes prescribed by law. The complainant is also ordered to plead the case with all available addresses of the accused and in case of failure of providing of proper address by the complainant of the accused the present complaint shall be disposed off.

Pronounced in the open Court on 24th day of July-2026.

Surat.

Date : 24/07/2026.

(Brijendra Chandra Tripathi)

21st A.C.J.M., Surat.
(GJ-01423)