

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 31 of 2025**

=====

VIJAYKUMAR SANTOSH KUMAR SHAHU

Versus

STATE OF GUJARAT & ANR.

=====

Appearance:

MR.BHANUKUMAR B AGRAWAL(10031) for the Applicant(s) No. 1

MR ROHAN RAVAL, APP for the Respondent(s) No. 1

=====

CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR****Date : 21/01/2025****ORAL ORDER**

1. **Rule.** Learned Additional Public Prosecutor waives service of notice of Rule on behalf of respondent State.
2. By way of this application under Section 438 read with Section 442 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (for short "BNSS") , the applicant has prayed for quashing and setting aside the judgment and order dated 03.01.2023 passed by the learned Addl. Chief Judicial Metropolitan Magistrate, Ahmedabad in Criminal Case No.67551/2017, whereby the Trial Court has been pleased to held the applicant guilty for the offence punishable under Section 138 of N.I. Act and sentenced to undergo SI of 12 months and also directed to pay cheque amount to the original complainant, as well as order dated 20.12.2024 by which learned Additional City Civil & Sessions Judge, Ahmedabad dismissed Criminal Appeal No.40/2023 of the applicant and confirmed the judgment and order of conviction dated 03.01.2023 of learned trial Court.
3. Hence, present criminal revision application is being filed mainly on the ground that both the Courts below have committed error in not appreciating the evidence as regards that the fact that there was no legally

enforceable debt on the present applicant and applicant was having an arguable case. Even, keeping aside the aforesaid submissions, learned advocate for the applicant, under the instructions from the applicant, has stated that applicant is ready and willing to deposit Rs.4,80,000/- with the learned trial Court if the sentence imposed against the applicant is suspended pending the present criminal revision application.

4. Learned counsel for the applicant further submitted that, the learned trial Court has awarded check amount as compensation to the complainant along with interest @ 9 % and as 20% of the cheque amount has already been paid, the applicant is ready and willing to deposit remaining check amount i.e. Rs.4,80,000/-.

5. Considering the aforesaid facts, subject to the applicant depositing Rs.4,80,000/- with the learned trial Court within a week, issue **NOTICE** making it returnable on **31.01.2025**. Learned APP waives service of Notice for and on behalf of respondent No.1 – State of Gujarat.

6. Pending the present criminal revision application, **interim relief** in terms of **paragraph No.8(C)** is granted and sentence imposed upon the applicant vide impugned judgment dated 03.01.2023 passed by the learned Addl. Chief Judicial Metropolitan Magistrate, Ahmedabad in Criminal Case No.67551/2017 as well as order dated 20.12.2024 passed by learned Additional City Civil & Sessions Judge, Ahmedabad in Criminal Appeal No.40/2023 are suspended and the applicant shall be released on bail by executing a fresh bond of **Rs.10,000/- (Rupees Ten Thousand Only)** with one surety of the like amount to the satisfaction of the trial Court, on conditions that applicant:-

- (a) shall not take undue advantage of liberty or misuse liberty;
- (b) shall not leave India without prior permission of this Court.
- (c) shall furnish the present address of his residence to the Court concerned at the time of execution of the bond and shall not

- change the residence without the prior permission of this Court.
- (d) shall proceed with the Criminal Revision Application as and when listed and shall not prolong the hearing of the same.

7. The authorities will release the applicant only if he is not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter.

Direct service is permitted.

(HASMUKH D. SUTHAR,J)

SUCHIT