

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 67 of 2024****With****CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2024****In R/CRIMINAL REVISION APPLICATION NO. 67 of 2024**

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RAMESH DALSANG**Versus****STATE OF GUJARAT**

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Appearance:**MR SMIT P VAGHELA(10653) for the Applicant(s) No. 1****for the Respondent(s) No. 2****MS. JIRGA JHAVERI, APP for the Respondent(s) No. 1**

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CORAM:HONOURABLE MS. JUSTICE S.V. PINTO**Date : 16/01/2024****ORAL ORDER****ORDER IN CRIMINAL REVISION APPLICATION**

RULE. Learned Additional Public Prosecutor appears and waives service of notice of rule on behalf of the respondent-State.

ORDER IN CRIMINAL MISC. APPLICATION

RULE. Learned Additional Public Prosecutor appears and waives service of notice of rule for and on behalf of the respondent-State.

1] The applicant-original accused has filed the present application for suspension of sentence passed in the judgment and order passed by the ***learned Additional Chief Judicial***

Magistrate, Banaskantha at Deesa in Criminal Case No. 3005 of 2014 dated **12th May, 2022** as well as judgment and order passed by the ***learned 6th Additional Sessions Judge, Banaskantha at Dessa in Criminal Appeal No. 13 of 2023*** on **2nd January, 2024**.

2] Learned advocate for the applicant submits that the original complainant i.e. respondent no. 2 had filed a complaint under Section 138 of the Negotiable Instrument Act, 1881 against the accused and at the end of the trial, the learned Additional Chief Judicial Magistrate, Deesa has been pleased to convict the accused for the offence punishable under Section 138 of the Negotiable Instrument Act, 1881 and sentence the applicant-accused to one year simple imprisonment and fine of Rs.9,58,700/- and in default further six months simple imprisonment and also ordered to pay the amount of Rs.,9,58,700/- to the complainant as compensation from the amount of fine.

2.1] Being aggrieved with the same, the applicant had filed Criminal Appeal No. 13 of 2023 under Section 374 of the Code of Criminal Procedure, 1973 before the learned 6th Additional Sessions Judge, Banaskantha at Dessa and the learned Additional

Judge was pleased to reject the appeal of the accused and confirmed the judgment and order passed by the learned Additional Chief Judicial Magistrate, Deesa.

2.2] Learned advocate for the applicant submits that learned 6th Additional Sessions Judge, Banaskantha at Deesa was pleased to direct the applicant to surrender within a period of 15 days from the date of the order passed on 2nd January, 2024 to undergo the sentence of imprisonment as ordered by the learned Magistrate and the period of 15 days expires on 17th January, That the applicant is protected by the order of learned learned 6th Additional Sessions Judge, Banaskantha at Deesa and has urged this Court to suspend the sentence of the applicant.

2.3] Learned advocate for the applicant has further submitted that the applicant has deposited 25% of the cheque amount of Rs. 6,05,801/- i.e. Rs.1,51,450/-, before the learned Appellate Court and is ready and willing to deposit further 25% of the cheque amount within a period of one month and hence has requested this Court that the execution of the impugned judgment and order of sentence may be suspended and the applicant-accused may be released on bail on any terms and condition that may be imposed by this Court.

3] Learned Additional Public Prosecutor appearing for the respondent-State has opposed to suspend the sentence of the accused and has submitted that the present application may not be considered.

4] Heard learned advocate for the applicant and learned Additional Public Prosecutor appearing for the respondent-State.

5] As per the say of the learned advocate for the applicant, the accused has deposited the 25% amount of the cheque and hence the execution of the order of sentence passed in the judgment and order of ***learned Additional Chief Judicial Magistrate, Banaskantha at Deesa in Criminal Case No. 3005 of 2014*** dated ***12th May, 2022*** as well as judgment and order passed by the ***learned 6th Additional Sessions Judge, Banaskantha at Dessa in Criminal Appeal No. 13 of 2023*** on ***2nd January, 2024*** is hereby suspended pending hearing and final disposal of the criminal revision application. The applicant is ordered to 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 the conditions that he:-

(i) shall not take undue advantage of liberty or misuse liberty;

(ii) shall not leave India without prior permission of this Court;

(iii) 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.

(iv) shall deposit 25% amount of the cheque i.e. Rs.1,51,450/- within a period of three weeks from today and file and undertaking to that effect at the time of his release.

6] The present application is allowed. Rule is made absolute.

Direct service is permitted.

VVM

(S. V. PINTO,J)