

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 146 of 2025**

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AFZAL MAHAMMADHUSEN SHEKH

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR SATYAJIT S SONAGARA(12218) for the Applicant(s) No. 1

NOTICE NOT RECD BACK for the Respondent(s) No. 2

MR KRUTIK PARIKH, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR****Date : 07/02/2025****ORAL ORDER**

1. Heard learned advocate appearing for the applicant and Id. APP appearing for the respondent State. Though notice served, the same is not received back.
2. By way of present criminal revision application, the applicant has assailed his conviction and sentence dated 14.10.2021 recorded by the learned Additional Chief Judicial Magistrate, Bharuch, in Criminal Case No.63/2019, whereby the applicant – accused is convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for short “NI Act”) and sentenced to undergo 1 year simple imprisonment and ordered to pay an amount of Rs.1,00,000/- towards compensation to the complainant.
3. Being aggrieved and dissatisfied with the said judgment, the applicant preferred Criminal Appeal No.238/2021 before the learned Addl. Sessions Judge, Bharuch, which came to be rejected vide judgment dated 11.12.2024 upholding and confirming the judgment of the learned Magistrate.
4. 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 has already deposited 20 % of the cheque amount before the trial Court and is ready and willing to deposit remaining 80% of the cheque amount with the learned trial Court if the sentence imposed against the applicant is suspended pending the present criminal revision application.

5. Considering the aforesaid fact, subject to the applicant depositing Rs.80,000/- with the learned trial Court, issue **NOTICE** making it returnable on **06.03.2025**. 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 14.10.2021 recorded by the learned Additional Chief Judicial Magistrate, Bharuch, in Criminal Case No.63/2019 as well as order dated 11.12.2024 passed by learned Addl. Sessions Judge, Bharuch in Criminal Appeal No.238/2021 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.

Direct service is permitted.

(HASMUKH D. SUTHAR,J)

SUCHIT