

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 2397 of 2023**

=====

DARSHAK NITINBHAI PAREKH

Versus

MEHTA JAYESHBHAI KANTIBHAI

=====

Appearance:

MR FB BRAHMBHATT(1016) for the Applicant(s) No. 1

for the Respondent(s) No. 1

MS ASHMITA PATEL ADDL. PUBLIC PROSECUTOR for the Respondent(s) No. 2

=====

CORAM:HONOURABLE MS. JUSTICE NISHA M. THAKORE**Date : 03/02/2023****ORAL ORDER**

1. This is an application filed under Section 439(2) of the Code of Criminal Procedure challenging the judgment and order dated 15.12.2022 passed by the learned 4th Additional Sessions Judge, Mehsana, Criminal Misc. Application No.1460 of 2020. By the said order, learned Sessions Judge has rejected the application filed by the present applicant – original informant seeking cancellation of bail granted to the respondent No.1.

2. Heard Mr. F.B. Brahmbhatt, learned advocate for the applicant – original informant. He has invited attention of this Court to the reasons assigned by the learned Sessions Judge, while rejecting the application of the informant and submitted that learned Sessions Judge on erroneous fact has not entertained the application. He categorically submitted that the respondent No.1, who is proprietor of M/s. Universal Labs is manufacturing and selling the products named Clobet-GM and Fungdid-B without any copyright being availed by the said firm. He invited attention of this Court to the order dated 20.05.2017 passed by the learned Additional Sessions Judge, Mehsana in Criminal Misc. Application

No.567 of 2017, more particularly, the conditions imposed by the learned Sessions Judge enlarging the respondent No.1 on regular bail and submitted that by condition No.8, the respondent No.1 – accused was prohibited from using similar registered trademark as used by the present applicant till final order of the Criminal Case. He relied upon the observations made by this Court in order dated 08.02.2018 passed in Criminal Misc. Application No. 16510 of 2017 and submitted that after considering the orders passed by the Civil Court between the present applicant and the respondent No.2 herein, who represented as partner of the respondent No.1 “Universal Pharma”, had not entertained such application seeking modification of bail conditions. He submitted that this Court, while confirming aforesaid condition has taken into consideration the offence alleged and to prevent the recurrence of such incident, had not entertained such application.

He further submitted that the respondent No.1 with an intention to overcome such condition under the name of “Universal Labs” in the year 2019, incorporated new firm and without any registered trademark, has proceeded to manufacture and sell the same products as that of the name of the products of the complainant. He, therefore, urged this Court to cancel the bail granted to the respondent No.1.

3. Let **Notice** be issued making it returnable on **24.02.2023**. Learned APP Ms. Patel waives service of Notice on behalf of the respondent No.2.

Y.N. VYAS

(NISHA M. THAKORE,J)