

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 491 of 2025**

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BELADIYA MANUBHAI HARJIBHAI

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR ANIL H RATHOD(9691) for the Applicant(s) No. 1

MS NAINCY N. PASI(16821) for the Applicant(s) No. 1

MR HK PATEL, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 01/04/2025**ORAL ORDER**

Heard learned advocates appearing for the respective parties at length.

By way of present criminal revision application, the applicant has assailed his conviction and sentence dated 06.04.2024 recorded by the learned Additional Chief Judicial Magistrate, at Sihor, District Bhavnagar in Criminal Case No.738 of 2017 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 3 months’ simple imprisonment and ordered to pay an amount of Rs.1,50,000/- towards compensation to the complainant.

Being aggrieved and dissatisfied with the said judgment, the applicant preferred Criminal Appeal No.73 of 2024 before the learned Sessions Judge, District Bhavnagar which came to be rejected vide judgment dated 28.02.2025 upholding and

confirming the judgment of the learned Additional CJM.

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.1,50,000/- with the learned trial Court if both the impugned orders of conviction and sentence are stayed pending the present criminal revision application.

Considering the aforesaid fact, subject to the applicant depositing Rs.1,50,000/- with the learned trial Court (if applicant has deposited any amount during the trial or appellate proceedings, same shall be adjusted accordingly) within a period of one week from today, issue **NOTICE** making it returnable on **22.04.2025**.

Learned APP waives service of Notice for and on behalf of respondent No.1 – State of Gujarat.

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 06.04.2024 recorded by the learned Additional Chief Judicial Magistrate, at Sihor, District Bhavnagar in Criminal Case No.738 of 2017 and order dated 28.02.2025 passed by the learned Sessions Judge, Bhavnagar in Criminal Appeal No.73 of 2024 are

stayed 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.)

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