

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL REVISION APPLICATION NO. 506 of 2022**

**With**

**CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL) NO. 1 of 2022**

**In R/CRIMINAL REVISION APPLICATION NO. 506 of 2022**

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**JIGNESH BHARATKUMAR DALWALA PROP. OF BALAJI FASHION**

**Versus**

**STATE OF GUJARAT**

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**Appearance:**

**MR CHETAN M PANDE(11886) for the Applicant(s) No. 1**

**MR MATAFER R PANDE(3952) for the Applicant(s) No. 1**

**for the Respondent(s) No. 2**

**MS MH BHATT, APP for the Respondent(s) No. 1**

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**CORAM: HONOURABLE MR. JUSTICE SAMIR J. DAVE**

**Date : 01/07/2022**

**ORAL ORDER**

**ORDER IN CRIMINAL REVISION APPLICATION**

**Notice**, returnable on **05.08.2022**. Learned APP waives service of Notice for and on behalf of respondent-State.

**ORDER IN CRIMINAL MISC. APPLICATION**

1. Rule. Learned APP waives service of notice of rule for and on behalf of the respondent -State.

2. This application is filed by the applicant praying for suspension of sentence vide judgment and order

dated 28.12.2021 passed by the 7<sup>th</sup> Additional Sessions Judge, Surat in Criminal Appeal No. 103 of 2016 as well as judgment and order dated 01.07.2016 passed by the 10<sup>th</sup> Additional Chief Judicial Magistrate, Surat in Private Criminal Case No.1960 of 2013 and also requested to enlarge the applicant on bail till the hearing and final disposal of the captioned Criminal Revision Application.

3. Learned advocate for the applicant submits that the applicant applicant is in jail since 21.04.2022 and he has no any criminal antecedents. That, the applicant was released on bail during the pendency of trial and he had not misused any liberty granted by the learned Sessions Court while releasing him on bail. That, the present applicant has not issued the disputed cheque to the Original Complainant for legal dues. The Cheque which was produced with the complaint is a disputed cheque and the original Complainant is failed to establish legal dues from the present applicant and therefore, judgment and order passed by the both the Courts below is erroneous and contrary to the provisions of law.

Therefore, the present bail application requires consideration. That, hearing of the Revision Application will take long time and till then, judicial custody of the applicant would not be required. Therefore, it was requested by learned advocate for the applicant to enlarge the applicant on bail till the hearing and final disposal of the captioned Revision Application.

4. Learned APP for the respondent - State has strongly objected the submissions made by learned advocate for the applicant and submitted that both the Courts below have rightly convicted the present applicant as he has been involved in the serious offence and requested this Court to dismiss the present application.

5. Having heard learned advocate for the applicant as well as learned APP for the respondent - State, it appears that nothing is produced on record by the respondent-State that he has misused any liberty granted by learned Sessions Court while releasing him on bail. Considering all these factual aspect as

well as evidence produced on record, this Court is of the view that this court has an ample power to suspend the sentence by exercising judicial discretion depending on the facts and circumstances of each case.

6. For the aforesaid reasons, present application stands allowed. Pending hearing and final disposal of aforesaid Criminal Revision Application, the impugned judgment and order dated 28.12.2021 passed by the 7<sup>th</sup> Additional Sessions Judge, Surat in Criminal Appeal No. 103 of 2016 as well as judgment and order dated 01.07.2016 passed by the 10<sup>th</sup> Additional Chief Judicial Magistrate, Surat in Private Criminal Case No.1960 of 2013 shall be suspended and the applicant is ordered to be released on bail on furnishing personal bond of Rs. 10,000/- (Rupees Ten thousand only) with surety of the like amount to the satisfaction of the trial court and on the following conditions:

- (a) shall maintain law and order;
- (b) shall not indulge in any activity leading to

breach of public peace and tranquility.

(c) shall not leave the State of Gujarat without prior permission of this Court.

7. Rule is made absolute. Direct service is permitted.

KUMAR ALOK

**(SAMIR J. DAVE,J)**