

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION) NO.
1242 of 2023**

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SANJIV KUMAR SHARMA PROPRIETOR OF BALAJI ENTERPRISE
Versus
PATEL MUKESHBHAI ATMARAMBHAI & ANR.

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Appearance:

MR RISHABH R JAIN(12326) for the Applicant(s) No. 1
for the Respondent(s) No. 1
MS CM SHAH, APP for the Respondent(s) No. 2

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CORAM:HONOURABLE MS. JUSTICE GITA GOPI

Date : 27/08/2024

ORAL ORDER

1. Leave to amend the name of the petitioner is granted.
The amendment to be carried out forthwith.
2. **RULE.** Learned Additional Public Prosecutor waives service of notice of Rule on behalf of respondent-State.
3. By way of this application, the challenge is given to the concurrent findings of conviction and sentence passed under Section 138 of the Negotiable Instruments Act, 1881.
4. Learned advocate for the applicant submits that Rs.1,00,000/- has been deposited in Criminal Appeal No.148 of 2022. Learned advocate for the applicant produced before this Court a copy of the receipt of the

above payment. It is, therefore, prayed that the present application may be allowed and the sentence qua the applicant herein may be suspended and the applicant be granted bail.

5. Learned Additional Public Prosecutor prayed that no discretion may be exercised in favour of the applicant.
6. Heard learned advocates appearing for the respective parties and perused the material on record. Taking into consideration the facts and circumstances of the case and when 20% of the cheque amount has been deposited before the learned Appellate Court and when the Revision Application will take its own time to come for final hearing, the order of sentence requires consideration.
7. In view of the above, orders of sentence i.e. order dated 31/05/2023 passed by the learned Sessions Judge, Mehsana in Criminal Appeal No.148 of 2022 and order dated 22/04/2022 passed by learned 9th Additional Judicial Magistrate First Class, Mehsana in Criminal Case No.3656 of 2019 are suspended till disposal of the present Criminal Revision Application on applicant's furnishing personal bond of Rs.10,000/- (Rupees ten thousand only) and a surety of like amount to the satisfaction of the Trial Court concerned and subject to the conditions that the applicant shall:-

- [a] pursue the matter scrupulously as and when the same is listed;
 - [b] not take undue advantage of liberty or misuse liberty;
 - [c] surrender the passport, if any, before the Trial Court concerned within a week;
 - [d] not leave India without prior permission of the Court;
8. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.

(GITA GOPLJ)

ILA