

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL REVISION APPLICATION NO. 278 of 2008

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

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Approved for Reporting	Yes	No

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KANTILAL UTTAMCHAND SHAH
 Versus
 STATE OF GUJARAT & ANR.

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Appearance:

BAILABLE WARRANT UNSERVED for the Applicant(s) No. 1

MR MB RANA(2760) for the Applicant(s) No. 1

MR PARESH A. PATEL(5456) for the Applicant(s) No. 1

MR ROHAN RAVAL, APP for the Respondent(s) No. 1

RULE SERVED for the Respondent(s) No. 2

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CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 22/04/2026

JUDGMENT

- 1) By way of present revision application the applicant has assailed the order dated 15.02.1999 in Criminal case No.1205 of 1994, passed by the learned Judicial Magistrate First Class, Dhanera, and subsequently it was assailed by way of filing Criminal Appeal No.10 of 1999 which came to be dismissed vide order dated 26.03.2008 by the learned Additional Sessions Judge, Banaskantha at Palanpur. Being aggrieved by the same the

present application has been filed.

- 2) It is pertinent to note that the prosecution was initiated at the instance of respondent no.2 against one Tarachand Dipchand Thakkar, owner of Chirag Traders who has filed Criminal Revision Application No.263 of 2008, which arising out of the same transaction and same set of facts matter and the present applicant is co-accused in the said offence. The Co-ordinate Bench was pleased to allow the Criminal Revision Application No.263 of 2008, vide order dated 12.11.2025 and observed in paragraph no.8 as under:-

"Considering the aforestated principles, and on reading of the judgments of both the trial Court as well as First Appellate Court. More particularly, Page 8 of the trial Court order. The Ld. Trial Court has recorded the discrepancies with regards to the packing material of the sample namely, the sample being collected in a wooden box, however were found in a cardboard box as per the receipt issued by the laboratory Vadodara at Exh-30 having found different from what has been collected by the complainant during surprise checking. This aspect is neither dealt by the trial Court nor by the First appellate Court and no finding to the effect has been recorded or dealt with in the reasoning part. Coupled with the fact that, the panchnama of the collection of the sample by the complainant at Exh-27 also records that the samples were sealed in wooden box. Even in the deposition of this aspect has been challenged and has been accepted by the witness. Thus, when the samples drawn came to be sealed in wooden box and were sent for analysis in cardboard box and this aspect also reflects in the public analysis report indicating that they received sample in the cardboard box. Therefore, the initial drawing of sample and sealing thereof, undertaken while preparing the panchnama does not get any corroboration from the oral evidence as well as documentary evidence placed on record and therefore no conviction can be recorded based upon such doubtful

sampling.”

- 3) With the aforesaid observation the said revision application was allowed by quashing orders of both the Courts below. Hence, in view of above as the present revision application having same set of facts, the same is also required to be allowed.
- 4) Accordingly, the present revision application is **allowed**. The judgment and order dated 15.02.1999 in Criminal Case No.1205 of 1994, passed by the learned JMFC, Dhanera as well as judgment and order dated 26.03.2008 in Criminal Appeal No.10 of 1999, passed by the learned Additional Sessions Judge, Banaskantha at Palanpur are quashed and set aside. Bail bond of the applicant stands cancelled.
- 5) Record and proceedings, if any, be sent back to the concerned Court forthwith.

ANKIT JANSARI

(HASMUKH D. SUTHAR,J)