

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 1746 of 2026**

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DAVA (PATEL) NIKUNJ KANTILAL

Versus

DILIP MOHANLAL CHAPPARWAL & ANR.

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Appearance:

MR. A.S.TIMBALIYA FOR MR PRITESHKUMAR A VAGHELA for the

Applicant No. 1

MS KRISHNABEN A VAGHELA(12885) for the Applicant(s) No. 1

MS.C.M.SHAH, APP for the Respondent(s) No. 2

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CORAM:HONOURABLE MS. JUSTICE S.V. PINTO

Date : 22/06/2026**ORAL ORDER**

1] **NOTICE** returnable on **03-11-2026**. Learned Additional Public Prosecutor appears and waives service of notice on behalf of the respondent No. 2 – State.

2] By way of the present application under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks quashing and setting aside the judgment and order dated 08-06-2026 passed by the learned 5th Additional Sessions Judge, Gandhinagar in Criminal Appeal No. 91 of 2024, whereby the judgment and order of conviction dated 29-01-2025 passed by the learned 5th Additional Judicial Magistrate, Gandhinagar in Criminal Case No. 2395 of 2023 for the offence punishable under

Section 138 of the Negotiable Instruments Act, 1881 has been substantially affirmed. While maintaining the conviction, the learned Appellate Court has modified the substantive sentence by reducing the sentence of simple imprisonment from two years, as imposed by the learned Trial Court, to six months' simple imprisonment, while directing the applicant to pay compensation of Rs.10,00,000/- to the complainant. The applicant has further prayed in Paragraph 6(B) of the application to suspend the execution of the sentence and to release him on bail during the pendency of the present Revision Application.

3] Heard learned advocate Mr. A.S.Timbaliya for learned advocate Mr. P.A.Vaghela for the applicant and learned Additional Public Prosecutor Ms. C.M.Shah for the respondent No. 2 – State.

4] Learned advocate for the applicant submits that the applicant-accused is ready and willing to deposit 20% of the cheque amount before his release before the learned trial Court. Learned advocate for the applicant submits that the present criminal revision application is not likely to be heard in near future and hearing of the same would take some long time and hence, no purpose would be served by keeping the applicant in jail for

indefinite period with hardened criminal. The applicant has good case on merits and hence, the execution of the impugned orders may be suspended and the applicant may be released on regular bail on appropriate terms and conditions. The applicant has a good case on merits and the prayer as prayed for in Para-6(B) may be allowed.

5] Learned Additional Public Prosecutor appearing for the respondent-State has opposed to suspend the sentence of the accused and has submitted that the present application may not be considered.

6] Considering the fact that the conviction is a fixed sentence and there is no likelihood of the revision application being heard in the near future and a prima facie case is made out in favour of the present applicant, the prayer qua Para-6(B) is allowed. The order of execution of sentence dated 08-06-2026 passed by the learned 5th Additional Sessions Judge, Gandhinagar in Criminal Appeal No. 91 of 2024, as also order dated 29-01-2025 passed by the learned 5th Additional Judicial Magistrate, Gandhinagar in Criminal Case No. 2395 of 2023 are suspended during pendency of the Criminal Revision Application 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;

- (i) shall pay 20% of the amount of cheque before his release;*
- (ii) shall not take undue advantage of liberty or misuse liberty;*
- (iii) shall furnish the present address of his residence to the Court concerned at the time of execution of the bond;*
- (iv) shall maintain law and order;*
- (v) shall not indulge in any activity leading to breach of public peace and tranquility;*
- (vi) the applicant shall be released if not required in any other case.*

Direct service is permitted.

VISHAL MISHRA

(S. V. PINTO,J)