

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 10580
of 2025**

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HIYA ENTERPRISE THRO PROP. SHYAMLAL UTTAMCHAND MURJANI
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MS. KRUPA P SONI(10048) for the Applicant(s) No. 1

MS SHRUTI PATHAK, APP for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 29/07/2025
ORAL ORDER

By way of present petition under Article 226 of the Constitution of India read with Section 528 of the BNSS, the petitioner has sought following relief:

"(A) YOUR LORDSHIPS may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction in the nature of certiorari for quashing Criminal Complaint No.3966 of 2025, pending before the Court of the Ld. Chief Judicial Magistrate, Himatnagar for the offence u/s. 138 of the Negotiable Instrument Act with all consequential effects;

(B) During the pendency and final disposal of this petition, YOUR LORDSHIPS may be pleased to stay further proceedings of Criminal Complaint No.3966 of 2025 pending before the court of the Ld. Chief Judicial Magistrate, Himatnagar on any condition that may be deemed fit and proper in the interest of justice;

Learned Advocate for the petitioner has submitted that the petitioner – Hiya Enterprise is not the drawer of the impugned cheque. The averment made in the complaint that the owner of the New Mama Bakery and Hiya Enterprise are the same. Due to this reason the petitioner is arraigned as an accused. *Prima facie* it appears that in absence of provision of section how the petitioner is arraigned as an

accused and cognizance is taken in view of Section 141 of the Negotiable Instruments Act, is not clearly reveals from the averments made in the petition. In view of the above facts, petition deserves consideration.

RULE returnable on **01.10.2025**.

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

Respondent No.2 to be served through the concerned police station.

There shall be **interim relief** in terms of **paragraph No.9(B)** of the petition.

Direct service is permitted.

(HASMUKH D. SUTHAR,J)

ANKIT