

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CRIMINAL REVISION APPLICATION NO. 883 of 2016**

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PIYUSHBHAI SHAUBHAGYACHAND SHAH....Applicant(s)

Versus

VISHALBHAI VINODBHAI GUPTA & 1....Respondent(s)

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Appearance:

ANUJ H DAVE, ADVOCATE for the Applicant(s) No. 1

MR RUSHABH SHAH FOR MR HARDIK H DAVE, ADVOCATE for the Applicant(s) No. 1

MR RAKESH PATEL APP for the Respondent(s) No. 2

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CORAM: HONOURABLE MR.JUSTICE Z.K.SAIYED**Date : 07/11/2016****ORAL ORDER**

Rule. Learned APP waives service of notice of rule on behalf of respondent State.

2. In the present Criminal Revision Application, the applicant herein original accused has prayed to release him on bail by suspending the sentence imposed by judgment and order dated 1.3.2016 passed by the learned Sixth Additional Chief Judicial Magistrate, Surat, in Criminal Case No.42644 of 2015 as well as the judgment and order dated 19.10.2016 passed by the learned 15th (Ad-hoc) Additional Sessions Judge, Surat, in Criminal Appeal No.36 of 2016 rejecting the appeal filed by the present applicant and confirmed the order passed by the learned Chief Judicial Magistrate, Surat, by which, the applicant has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced to

undergo simple imprisonment of four months and to pay the compensation of Rs.2,15,000/- to the complainant as per Section 357 of the Code of Criminal Procedure.

3. Learned advocate Mr. Rushabh Shah for the applicant states that the impugned judgment and order passed by the Courts below are required to be set aside as the same are passed without properly appreciating the evidence on record and the Courts below imposed such harsh imprisonment. He further states that the applicant has earlier deposited Rs.15,000/- and now, Rs.2 Lakhs only remains due against the total amount. He also states that the applicant is required to be enlarged on bail as the applicant is ready to deposit Rs.1,50,000/- within some stipulated time as may be fixed by this Court. He, therefore, prays to grant the bail to the applicant by suspending the sentence till disposal of the present Revision Application.

4. Heard learned APP Mr. Rakesh Patel appearing for the respondent State.

5. Considering the overall facts and circumstances of the case and sentence imposed by the learned Sixth Additional Chief Judicial Magistrate, Surat, vide order dated 1.3.2016 in Criminal Case No.42644 of 2015 and confirmed by learned 15th (Ad-hoc) Additional Sessions Judge, Surat, in Criminal Appeal No.36 of 2016 dated 19.10.2016, the applicant is required to be enlarged on bail. The sentence imposed by the learned Sixth Additional Chief Judicial Magistrate, Surat, vide judgment and order dated 1.3.2016 in Criminal Case No.42644 of 2015 and confirmed by learned 15th (Ad-hoc) Additional Sessions Judge, Surat, in Criminal Appeal No.36 of 2016, vide

judgment and order dated 19.10.2016 are hereby suspended and the applicant shall be released on regular bail on condition that he shall deposit Rs.1,50,000/- before this Court within three weeks from today and also on executing personal bond of Rs.10,000/- (Rupees Ten Thousand only) and one surety of like amount to the satisfaction of the Trial Court and subject to the conditions that he shall;

(a) surrender passport, if any, to the lower court within a week;

(b) not leave the State of Gujarat without prior permission of the Trial Court;

(c) furnish the present address of residence to the I.O. and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of this Court;

Direct service is permitted.

(Z.K.SAIYED, J.)

YNVYAS