

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 1478 of 2025**

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ALTAF RAJABALI HUDANI
Versus
HARENDRASINH INDUBHA ZALA & ANR.

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Appearance:
M S PADALIYA(7406) for the Applicant(s) No. 1
MR. NIRAJ SHARMA APP for the Respondent(s) No. 2

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CORAM:HONOURABLE MR.JUSTICE L. S. PIRZADA

Date : 02/09/2025

ORAL ORDER

1. Heard learned advocate Mr. M.S. Padaliya for the applicant. It is submitted that the present applicant has been convicted by the learned trial Court for the offence punishable under Section 138 of the Negotiable Instruments Act and same was challenged by preferring an appeal before the learned Sessions Court and the learned Sessions Court has rejected the appeal and confirmed the judgment of conviction by the learned trial Court and revision application has been preferred. Further it is submitted that present applicant has good defense as cheque has been issued from the account of a person. The present applicant – accused has only the power of attorney holder to operate the said account. There is no transaction

with the complainant and the present applicant – accused. So there is no legally enforceable debt has been proved. In spite of this fact learned Trial Court and the learned Appellate Court has not considered this defense and prayed for suspension of the sentence.

2. Considering the arguments advanced by the learned advocate for the applicant, perusing the judgment passed by the learned Trial Court and the judgment passed by the learned Appellate Court. The present applicant has good case on merits. This is a case of short sentence and hearing of the revision application might take long time, pending revision application and the sentence is required to be suspended.

3. Issue the Rule to respondent, returnable on 17.11.2025. Learned APP waives service of Rule on behalf of the respondent – State.

4. Interim relief in terms of paragraph 7 – (B) is hereby granted.

5. The sentence passed by the learned Additional Judicial Magistrate First Class, Vankaner in Criminal Case No.1604/2023 by judgment and order dated 21.02.2025 sentencing the

present applicant for one year of simple imprisonment for the offence punishable under Section 138 of the Negotiable Instruments Act and judgment passed by the learned Sessions Judge, Morbi in Criminal Appeal No.24/2025 by judgment dated 22.07.2025 rejecting the appeal and confirming the judgment of conviction passed by the learned trial Court, is hereby, suspended till the final disposal of the revision application. The present applicant-accused has to furnish personal bond of Rs.10,000/- and surety of like amount before the learned trial Court on following conditions:-

- (a) Not to misuse the liberty given by this Court.
- (b) Furnishing address with documentary proof before the learned trial Court.
- (c) Not to leave India without prior permission of this Court.
- (d) The present applicant – accused has to deposit 25% of the cheque amount before the learned Trial Court within four weeks from the date of passing of this order further be deposited 25% of the cheque amount before the learned Trial Court within four weeks thereafter.

Direct service permitted.

(L. S. PIRZADA, J)

HRT