

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 2647 of 2026**=====
RAKESHBHAI KANUBHAI PATEL**Versus****PARESHBHAI RASIKBHAI PATEL & ANR.**
=====**Appearance:****ADILHUSHAIN M SAIYED(9723) for the Applicant(s) No. 1****MR. KRUTIK PARIKH, APP for the Respondent(s) No. 2**
=====**CORAM:HONOURABLE MS. JUSTICE S.V. PINTO****Date : 10/09/2026****ORAL ORDER**

1] **RULE** returnable on **12.02.2027**. Learned Additional Public Prosecutor appears and waives service of notice of rule on behalf of the respondent – State.

2] By way of the present application under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks suspending the judgment and order dated 01.09.2026 passed by the learned Additional District & Sessions Judge, Bharuch in Criminal Appeal No. 382 of 2023 confirming the judgment and order of conviction passed by learned 3rd Judicial Magistrate First Class, Bharuch, in Criminal Case No. 11014 of 2021 dated 01.02.2023 and has prayed in Para – 6(B) to suspend the order of execution of sentence during pendency of the present Revision Application and to release the applicant on bail, whereby,

the present applicant was sentenced to simple imprisonment for one year for the offence under Section 138 of the Negotiable Instruments Act, 1881 and has been ordered to pay cheque amount within sixty days as compensation to original complainant and in default, simple imprisonment for further three months.

3] Heard learned advocate Mr. A.M.Saiyed for the applicant and learned Additional Public Prosecutor Mr. Krutik Parikh appearing for the respondent – State.

4] Learned Advocate Mr. A.M.Saiyed submits that respondent No.2 had filed Criminal Case No. 11014 of 2021 before the Court of Chief Judicial Magistrate, Bharuch and, at the end of the trial, the learned 3rd Judicial Magistrate First Class, Bharuch, vide order dated 01.02.2023 was pleased to convict the applicant under Section 138 of the N.I. Act, 1881 and sentence him to undergo simple imprisonment for one year and to pay cheque amount, as compensation to the original complainant and in default simple imprisonment for three months. Being aggrieved by the said order of conviction, the applicant preferred Criminal Appeal No.382 of 2023 before the Sessions Court, Bharuch and, vide order dated 01.09.2026, the learned Additional District & Sessions Judge, Bharuch was pleased to confirm order passed by the learned 3rd

Judicial Magistrate First Class, Bharuch, vide order dated 01.02.2023 passed in Criminal Case No. 11014 of 2021. Learned Advocate submits that, pursuant to the order passed by the learned Sessions Judge, Bharuch, the applicant has surrendered before the learned Trial Court and is presently in custody undergoing the sentence since 01.09.2026. Learned Advocate for the applicant submits that the applicant had already deposited 20% of the cheque amount before the learned Sessions Judge, Bharuch and is now ready and willing to deposit further 10% of the cheque amount before his release and remaining 10% of the cheque amount within two weeks after his release before the learned Court concerned. It is further submitted that the present Criminal Revision Application is not likely to be heard in the near future and that its final adjudication is likely to take considerable time. Therefore, no useful purpose would be served by keeping the applicant incarcerated during the pendency of the revision application. The applicant has a strong *prima facie* case on merits and, therefore, the execution, operation and implementation of the impugned judgment and order deserve to be suspended pending final disposal of the revision application and the applicant may be enlarged on regular bail on such terms and conditions as this Court

may deem fit and proper. Accordingly, it is prayed that the relief sought in paragraph 6(B) of the revision application be granted.

5] Learned Additional Public Prosecutor Mr. Krutik Parikh appearing for the respondent – State has submitted that necessary orders may be passed.

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 the applicant had already deposited 20% of the cheque amount before the learned Sessions Judge, Surat and now applicant is ready and willing to pay further further 10% of the cheque amount before his release and remaining 10% of the cheque amount within two weeks after his release before the learned Court concerned., the prayer qua Para – 6(B) is allowed. The impugned order of execution of sentence order dated 01.09.2026 passed by the learned Additional District & Sessions Judge, Bharuch in Criminal Appeal No. 382 of 2023 confirming the judgment and order of conviction passed by learned 3rd Judicial Magistrate First Class, Bharuch, in Criminal Case No. 11014 of 2021 dated 01.02.2023 shall stand suspended during pendency of the present Criminal Revision Application and the applicant is ordered to be released on regular 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 deposit further 10% of the cheque amount before his release and remaining 10% of the cheque amount within two weeks after his release before the learned Court concerned;

(ii) shall not take undue advantage of the liberty granted or misuse such liberty;

(iii) shall not leave India without the prior permission of this Court;

(iv) shall furnish the address of his present place of residence to the Court concerned at the time of execution of the bond and shall not change the same without the prior permission of this Court;

(v) shall maintain law and order and shall cooperate with the proceedings, if required;

(vi) shall not indulge in any activity which may result in breach of public peace and tranquility;

(vii) shall be released forthwith, if his custody is not required in connection with any other case.

Direct service is permitted.

VISHAL MISHRA

(S. V. PINTO,J)