

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION NO. 1339 of 2022

**With
CRIMINAL MISC.APPLICATION (FOR CONDONATION OF DELAY) NO. 1
of 2022**

**In
R/CRIMINAL REVISION APPLICATION NO. 1339 of 2022**

**With
CRIMINAL MISC.APPLICATION (REGULAR BAIL) NO. 2 of 2022**

**In
R/CRIMINAL REVISION APPLICATION NO. 1339 of 2022**

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MANOJBHAI JINABHAI SOHLA

Versus

STATE OF GUJARAT

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Appearance:

**MR HIRENKUMAR M NIYALCHANDANI(9959) for the Applicant(s) No. 1
for the Respondent(s) No. 2**

MR PRANAV TRIVEDI APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE GITA GOPI

Date : 21/03/2023

ORAL ORDER

**Order in Criminal Misc. Application No.1 of
2022**

Since the delay of 51 days occurred in challenging the order of appellate Court, which has affirmed the conviction and sentence under section 138 of the N.I. Act, the delay is condoned. Application is allowed. Rule is made absolute.

The main matter being Criminal Revision Application No.1339 of 2022 be listed today along with the bail application.

Order in Criminal Revision Application

1. By way of this application, the applicant - revisionist challenges the judgment of conviction and sentence dated 24.02.2020 passed by the learned second Additional Chief Judicial Magistrate, Rajkot in Criminal Case No.11347 of 2017, wherein the applicant was sentenced to undergo one year of simple imprisonment under Section 138 of the N.I. Act and directed to pay check amount within one month from the date of the order and in default of payment within one month further 6 months simple imprisonment. The above sentence was challenged by way of an Appeal and the same was confirmed on 21.07.2022 by the learned Additional Sessions Judge, Rajkot in Criminal Appeal No.86 of 2020.

2. The applicant – revisionist is present before this Court and submitted that if he suffers imprisonment, then as per rule he would lose his job.

3. By placing an agreement on record, learned advocate for the applicant – revisionist states that the agreement was executed between complainant and the accused and accordingly about Rs.2,31,000/- has been received as cash by the complainant and Mr. Advocate Mr. Niyalchandani states that the agreement has laid down that within 60 to 90 days the applicant – revisionist would pay rest of the amount, which is Rs.5,00,000/-.

4. Learned Additional Public Prosecutor prayed that no discretion may be exercised in favour of the applicant.

5. Taking into consideration the submissions from the side of the revisionist, **Rule**. Learned APP waives service of notice of rule on behalf of respondent State.

Order in Criminal Misc. Application 2 of 2022

1. In view of the order passed in Criminal Revision Application, the sentence imposed upon the applicant - revisionist vide judgment of conviction and sentence dated 24.02.2020 passed by the learned second Additional Chief Judicial Magistrate, Rajkot in Criminal Case No.11347 of 2017, which was upheld and confirmed on 21.07.2022 by the learned Additional Sessions Judge, Rajkot in Criminal Appeal No.86 of 2020, shall remain suspended pending hearing and final disposal of the present Revision Application and the applicant-revisionist herein is ordered to be released on bail on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that the applicant-revisionist shall;

[a] pursue this Revision Application;

[b] not take undue advantage of liberty or misuse liberty;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave India without prior permission of this Court;

[e] file an undertaking that the applicant - revisionist would pay remaining amount within 60 to 90 days before the concerned trial Court;

2. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter. The application stands disposed of.

3. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.

(GITA GOPI,J)

Pankaj