

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR CONDONATION OF DELAY) NO.
25150 of 2025****In F/CRIMINAL MISC.APPLICATION/41616/2025
In F/CRIMINAL APPEAL/41620/2025**

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MEHBOOB HUSSAIN ALIBHAI MEMON
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR N P PANDYA(11241) for the Applicant(s) No. 1

MR TIRTHRAJ PANDHA, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE SANJEEV J.THAKER**

Date : 07/04/2026**ORAL ORDER**

1. This is an application for condonation of delay of 15 days in preferring the Criminal Appeal against the impugned judgment and order of acquittal passed by the learned trial Court.

2. Learned advocate for the appellant seeks permission to withdraw this application, in view of the latest decision rendered by this Court in the case of *Shivsinh Ganpatsinh Solanki V/s State of Gujarat & Anr.* being *Criminal Miscellaneous Application Nos. 12753 of 2019 with 12908 of 2019 on 23.12.2025*, wherein, after considering the various judgments of the Hon'ble

Supreme Court, more particularly, the judgment in the matter of *M/s Celestium Financial V/s A.Gyanasekaran etc. reported in 2025 INSC 804*, has observed and held that the Complainant, in a complaint under Section 138 of the N.I. Act, being a Victim, has a specific right to appeal under proviso of Section 372 of the Code (Section 413 of BNSS) to the Court which is immediately superior in hierarchy i.e., the Sessions Court, with a liberty to file appropriate appeal under Section 372 of the Code (Section 413 of BNSS) and prayed that the period that may be consumed in filing the present appeal, may not be counted as delay in filing such appeal before the concerned Court.

3. In view of the above, permission as prayed for is granted. The present application/s as well as the connected appeal are disposed of as withdrawn, with a liberty to file appropriate appeal before the concerned Court, within a period of four months from the date of receipt of copy of this order. While considering the delay, the period from which the present appeal is filed, till the time this appeal is disposed of, will not be considered in the aspect of considering the delay in filing

appeal under section 372 of the Code (Section 413 of BNSS). The Appellate Court will have to take into consideration the delay of 15. days at the time when the said appeal is filed before the concerned Sessions Court. The certified copy of the impugned judgment, be handed over to the applicant/appellant, as per Rules, if asked for. It is clarified that this Court has not gone into the merits of the matter at this stage.

URIL RANA

(SANJEEV J.THAKER,J)