

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 26307 of 2025**

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SADHNA MANISH MALOO

Versus

VISHWAS KANHAIYALAL DETROJA & ANR.

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Appearance:

ADITYA A GUPTA(7875) for the Applicant(s) No. 1

MR. ROHAN SHAH, APP for the Respondent(s) No. 2

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CORAM:**HONOURABLE MR. JUSTICE DIVYESH A. JOSHI****Date : 30/04/2026****ORAL ORDER**

Learned advocate Mr. Aditya Gupta appearing for the applicant submits that the prosecution has been instituted at the instance of Respondent No. 2 against three accused persons under the provisions of Section 138 of the Negotiable Instruments Act, 1881, whereupon the concerned Court has taken cognizance and issued summons. He submits that if this Court would make a cursory glance at the averments made in the body of the complaint, it would reveal that at the time of retirement from the partnership firm, the responsibility to pay the outstanding dues was upon accused No. 1, namely Dilipsinh Ganpatsinh Gohil. It is further submitted that the said accused had issued a cheque from his personal account in favour of the complainant, which came to be dishonoured, pursuant to which the present prosecution has been instituted.

Learned advocate Mr. Gupta further submits that,

considering the aforesaid averments in the complaint as well as the fact that the cheque was issued by accused No. 1 in his personal capacity, the principle of vicarious liability cannot be attracted qua the present applicant. He has placed reliance upon the principles of law laid down by the Hon'ble Apex Court in the case of S.M.S. Pharmaceuticals Ltd. vs Neeta Bhalla and Anr. and submitted that there is merit in the application and it requires to be entertained.

Issue **NOTICE** making it returnable on **08.07.2026.**

In the meantime, interim relief in terms of paragraph 9(c) is granted.

(DIVYESH A. JOSHI,J)

GARVITA