

(2020) 11 GUJ CK 0024
In the Gujarat High Court

Case No : R/Criminal Revision Application No. 618 Of 2020

Kalpeshbhai Narandas Mirani

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 19-11-2020

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138
Code Of Criminal Procedure, 1973 — Section 255(2)

Citation : (2020) 11 GUJ CK 0024

Hon'ble Judges : Nirzar S. Desai, J

Bench : Single Bench

Advocate : Sandhya D Natani, Dharmesh Devnani

Final Decision : Allowed

Judgement

Nirzar S. Desai, J

1. By way of this application, the applicant herein has challenged the judgment and order dated 16.10.2018 passed in Criminal Case No.909 of 2015

passed by the learned Additional Chief Metropolitan Magistrate, Negotiable Instrument Act, Court No.35, Ahmedabad whereby while convicting the

present applicant for the offences punishable under Section 138 of the Negotiable Instrument Act, a punishment was imposed under Section 255 (2) of

the Code of Criminal Procedure, 1973 (â??Cr.P.C.â??, for short) and the applicant was directed to undergo simple imprisonment for a period of one

year and to pay a sum of Rs.3/- Lakhs towards compensation within a period of 60 days and in default of making payment of fine the applicant was

directed to further undergo sentence for further period of 30 days. The said order was confirmed vide judgment dated 06.11.2020 rendered in Criminal

Appeal No.623 of 2018 by the learned Additional Sessions Judge, Court No.28,

City Sessions Court, Ahmedabad. These two orders are under challenge by way of present revision application.

2. Heard Ms.Sandhya Natani, learned advocate for the applicant and Mr.Dharmesh Devnani, learned Additional Public Prosecutor for the respondent State.

3. It is stated by Ms.Natani, learned advocate for the applicant that an amount of Rs.40,000/- has already been deposited by the applicant pending trial before the trial Court. She has also shown willingness to further deposit an amount of Rs.1,10,000/- which will make total deposit of Rs.1,50,000/-being 50% of the amount which is directed to be paid by the trial Court towards the compensation.

4. To this preposition, Mr.Devnani, learned APP has insisted for deposit of 100% of the amount as directed by the trial Court as there are concurrent findings of facts of both the Courts below against the present applicant.

5. Considering the rival submissions, this Court is of the view that in case if the applicant deposits further amount of Rs.1,10,000/- with the Registry of this Court, latest by 27.11.2020, both the impugned orders i.e. the judgment and order dated 16.10.2018 passed in Criminal Case No.909 of 2015

passed by the learned Additional Chief Metropolitan Magistrate, Negotiable Instrument Act, Court No.35, Ahmedabad and judgment dated 06.11.2020

rendered in Criminal Appeal No.623 of 2018 by the learned Additional Sessions Judge, Court No.28, City Sessions Court, Ahmedabad shall remain

stayed and suspended, on the applicant having furnished fresh bail bond of Rs.10,000/- (Rupees Ten Thousand Only), on the similar terms and

conditions on which the applicant was granted bail by the Sessions Court. In view of this, Notice returnable on 15.12.2020. Respondents are permitted

to be served by learned advocate for the applicant through E-mode and physically as well.