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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS INSOLVENCY JURISDICTION

NOTICE OF MOTION NO.14 OF 2025

IN

RULE NISI NO.9 OF 2019

IN

INSOLVENCY PETITION NO.95 OF 2001

Rajesh M. Shah

...Applicant /
Orig. Debtor
No.1

In the matter between

Rajesh M. Shah

...Applicant /
Orig. Debtor
No.1

Smt. Bharati Jitendra Shah &
Vinodchandra R. Sheth

...Respondent
Nos.2 and 3 (Ori.
Debtor Nos.2 and
3

The Official Assignee of Bombay High Court

...Respondent
No.4

Ex-parte

M/s. Lakhotiya Udyog

...Petitioning
Creditor

Ms. C.J. Bhatt, Official Assignee with Mr. Subodh Patil, Deputy OA.
And Mr. D.B. Iswalkar 1st Asstt. OA present.

Ms. Rekha Rane, Insolvency Registrar present.

Mr. Deepak Thakre with Manish R. Bohra and Akshay Pansare for the
Applicant in NMIS No.14 of 2025.

Mr. Anil Bagwe, for the Petitioning Creditor.

Mr. Mehul Shah for Applicant in NMIS No.6 of 2024.

CORAM : R.I. CHAGLA J.

DATE : 1ST JULY, 2025.

ORDER :

1. By this Notice of Motion, the Applicant / Original Debtor No.1 has sought recall of Order dated 17th February, 2023 passed by this Court and for this Court to suspend the sentence and release the Applicant / Original Debtor No.1 forthwith.

2. By the Order dated 17th February, 2023, this Court in Rule NiSi No.9 of 2019 had made the Rule NiSi absolute in terms of prayer Clauses (a) and (b) and committed the Insolvent No.1 to jail for failure to attend the private examination touching his estate and affairs before the Official Assignee and failure to cooperate with the Official Assignee in the Insolvency Proceedings.

3. Mr. Deepak Thakre, the learned Counsel appearing for the Applicant states that the Applicant has been in jail for over a period of 9 months and has cooperated with the Official Assignee in private examination. He has submitted that the Applicant will cooperate with the Official Assignee as and when called upon to do so and comply with the requisitions of the Official Assignee.

4. Mr. Thakre has submitted that the public meeting has also commenced on 24th September, 2024, whereas the private

meeting with the Official Assignee was completed 19th September, 2024. The Applicant had been taken into custody and is languishing in jail since 31st August, 2024.

5. The Official Assignee has filed Reply to the Notice of Motion, wherein in paragraph 12 she has stated that an appropriate Order may be passed on the Notice of Motion considering the averments made in the said Affidavit in Support of the Notice of Motion and the age and health of the insolvent. If it feels appropriate to the Court a conditional order may be passed for releasing the Applicant / Insolvent No.1 viz. Rajesh Manmohandas Shah from civil jail with condition that the insolvent will remain present before the Official Assignee as well as the Insolvency Registrar as and when called for and cooperate with the Official Assignee or the Insolvency Registrar. The Applicant / Insolvent No.2 is also required to cooperate with the Court in future and not take undue advantage of the order of the Court and / or run away from his obligation to his creditors as an insolvent.

6. Having considered the averments in the Notice of Motion as well as the fact that the Applicant has cooperated with the Official Assignee in the private meeting which was concluded on 19th

September, 2024 and the public meeting having commenced on 24th September, 2024 as well as fact that the Applicant has been languishing in jail since 31st August, 2024, the relief sought for in the Notice of Motion requires to be granted, subject to certain conditions.

7. In view thereof, the Applicant shall be released from jail forthwith and the sentence suspended. This would be subject to the Applicant remaining present before the Official Assignee as well as the Insolvency Registrar as and when called for and cooperating with the Official Assignee and / or the Insolvency Registrar and also this Court in future. The Applicant shall not take undue advantage of this Order as well as not run away from his obligation to his creditors as an insolvent.

8. The Notice of Motion is accordingly disposed of.

9. The parties to act upon an authenticated copy of this Order.

[R.I. CHAGLA J.]