

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION) NO.
760 of 2008
With
CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL) NO. 1 of 2026
In R/CRIMINAL REVISION APPLICATION NO. 760 of 2008**

**FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Approved for Reporting	Yes	No
		√

**RATILAL MAGHABHAI SHRIMALI
Versus
STATE OF GUJARAT**

Appearance:

MR RJ GOSWAMI(1102) for the Applicant(s) No. 1
NON BAILABLE WARRANT SERVED for the Applicant(s) No. 1
MR ROHAN RAVAL, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

**Date : 22/04/2026
JUDGMENT**

[1.0] By way of present revision application under Sections 397 read with 401 of the Code of Criminal Procedure, 1973, the applicant – accused has prayed for quashing and setting aside the judgment and order of conviction and sentence dated 30.03.2007 passed by the learned Judicial Magistrate First Class, Palanpur in Criminal Case No.1127/1994, whereby the learned trial Court has been pleased to hold the applicant guilty for the offence punishable under Section 409 of the Indian Penal Code, 1860 (which shall hereinafter be referred to as “IPC” for short) and sentenced to undergo simple imprisonment for one year with fine and in default of payment of fine to undergo further simple imprisonment for three months as well as the judgment and order dated 16.12.2008 passed by the learned Additional Sessions Judge, Palanpur in Criminal Appeal No.9/2007.

[2.0] Heard learned Advocate for the applicant and learned APP for the respondent – State.

[3.0] At the outset, the applicant – accused is convicted for the offences punishable under Section 409 of the IPC and there are concurrent findings of both the Courts below. The applicant has committed the offence for the first time and hence, the learned Advocate for the applicant has prayed to extend the benefit of probation to the applicant. This Court vide order dated 08.04.2026, has called for report of Probation Officer, Palanpur in compliance of which the Chief Probation Officer, Palanpur, has submitted the probation report of the applicant – accused, which is taken on record. As per the said report the conduct of present applicant is good and Probation Officer has also recommended to extend the benefit of probation to the applicant. Furthermore, 18 years have passed since the date of the incident and during this period the applicant did not indulge in any further crime and report of Probation Officer also suggest good conduct of the applicant.

[4.0] Now, while exercising jurisdiction under Section 401 of the Code is discretionary and it is required to be used only in exceptional cases where glaring defect in the procedure and manifest error of law or there has been miscarriage of justice. Here no any such error is pointed out or no perversity is found from the reasons assigned by the learned Sessions Judge. Hence, the learned Sessions Judge has not committed any error in coming to the conclusion. Even in revisional jurisdiction the Court has to be more careful in re-appreciating the fact or evidence as revisional jurisdiction itself does not provide re-appreciation of evidence and considering the limited jurisdiction the Court cannot act as Appellate Court. Hence, no case is made out for interference with the impugned findings in light of scope of the scope of revision laid down by the Hon'ble Apex Court in ***Amit Kapoor Vs. Ramesh Chander***, reported in ***2012 (9) SCC 460***.

[4.1] However, one of the prime consideration under the penology is reformatory approach. The Court has to also consider the possibility of

rehabilitation and reformation of offender and therefore, the discretion given to the Court while awarding the sentence under Section 360(1)(iii) of the Code of Criminal Procedure and to consider the provision of Probation of Offenders Act. Considering the aforesaid fact, in order to permit rehabilitation of offender, without finding their communal conscience and to secure the societal interest and justice, Court should prefer the reformatory approach instead of inflicting higher or harsher punishment.

[5.0] In view of above, the applicant – accused is directed to be released on probation of good conduct under Section 4 of the Probation of Offenders Act, upon execution of probation bond in sum of Rs.20,000/-, with one surety of like amount for a period of one (1) year.

[6.0] It is hereby further directed that the applicant – accused shall receive the sentence as and when called upon till the said period and the applicant shall maintain peace during above mentioned period of one (1) year.

[6.1] The above mentioned bond under Section 4 of the Probation of Offenders Act be submitted before the learned trial Court within 15 days of passing of this judgment.

[7.0] Accordingly, present revision application is disposed of. Record and proceedings, if any, be sent back to the concerned Court forthwith. Rule accordingly.

In view of disposal of revision application, misc. application also stands disposed of.

Sd/-
(HASMUKH D. SUTHAR, J.)

Ajay

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AJAY CHANDRAN MENON(HC00939), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 22/04/2026 14:19:34