IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY SUBORDINATE COURT) NO. 3187 of 2026

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DEEP RAVINDRABHAI PATEL

Versus

STATE OF GUJARAT

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Appearance:
MR YOGESH P TIWARI(13763) for the Applicant(s) No. 1
MR. HARESHKUMAR J NIHALANI(16696) for the Applicant(s) No. 1
MR ROHAN RAVAL APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE R. T. VACHHANI**

Date : 04/11/2026

ORAL ORDER

Order passed below Exhibit-59 in Sessions Case No.19 of 2024 dated 24/06/2026 by the learned 2nd Additional Sessions Judge, Surat dismissing the application seeking alteration / modification of the charge from under Section 302 of the Indian Penal Code to one under Section 304 Part – I or alternatively 304 Part – II of the Indian Penal Code is sought to be assailed in this revision application under Section 438 read with Section 442 and Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 and under Article 227 of the Constitution of India.

2. Learned advocate for the petitioner – accused has mainly contended that the incident in question occurred suddenly between the victim and the accused and therefore, there is no intention on the part of the petitioner to cause death of the deceased or to cause bodily injury to the victim. He would further submit that in the incident in question the applicant himself sustained the injuries on account of the blows and therefore to prove the charge of offence punishable under Section 302

necessary ingredients are not proved.

2.1 While assailing the impugned order, learned advocate for the petitioner – accused would further submit that since the petitioner – accused is tried for the offence punishable under Section 302 of the IPC, the petitioner – accused is unable to get the bail and therefore, while presuming that necessary ingredients of offence punishable under Section 302 of the IPC are missing, the learned Trial Court concerned ought to have allowed the said application and to alter the charge from one under Section 302 of the IPC to under Section 304 Part I or alternatively 304 Part II of the IPC.

3. *Per contra*, learned APP has invited the attention of this Court to the observations made by the learned Trial Court that 13 important witnesses including the complainant, doctor and other witnesses have been examined where-from it appears that injuries sustained to the victim are on vital part of the body and therefore only with an intention to protract the trial the application in question has been moved which has rightly been dismissed by the learned Trial Court.

3.1 Learned APP would also submit that order in question has been passed in the month of 24/06/2026 whereas the present application has been moved on 30/09/2026 and thus the petitioner by making such application would intend to protract the trial and therefore, present application may be dismissed with exemplary costs.

4. Having heard the learned Advocates appearing for the respective parties and having examined the material placed before this Court for consideration, the entire thrust of the application moved by the petitioner as canvassed herein is that the incident in question happened to be in a

spur of moment occurred between the accused and the victim – deceased and it is therefore submitted that there was no intention on the part of the petitioner to cause death of the victim so also to cause any such bodily injury to the deceased and that aspect appears to have been pressed for by the petitioner while trying to put his defence.

5. It appears from the record that charge in question appears to have been framed way back on 05/07/2024 and thereafter the trial has been commenced and material witnesses have been examined and cross-examined by the parties thereto which is self-explanatory and speaks volume as to the demeanor on the part of petitioner of using delay tactics and thereby the trial in question would be protracting; without there being any plausible reason.

6. It also appears from the record that such application seeking alteration / modification of the charge has been moved only after a period of two years from framing of the charge that too after the victim and the other material witnesses have been examined and as recorded by the learned Trial Court in the impugned order that injuries sustained by the victim are on vital part. However, at earlier stage of the trial when the trial has been commenced, no such application has been moved seeking alteration of the charge and therefore the argument advanced by the learned Advocate for the petitioner is that to enable the petitioner to move the application for bail in the event of application seeking alteration of charge is allowed from Section 302 to 304 Part I alternatively 304 Part II of the IPC, which in the opinion of this Court does not inspire any confidence and therefore, the conclusion arrived at by the learned Trial Court does not warrant any interference.

7. For the foregoing reasons, the present revision application is

devoid of merits and is accordingly dismissed with cost of Rs.5,000/- to be deposited before the learned Sessions Court concerned within a period of ten days from the date of the receipt of the writ of this order. If the petitioner fails to pay the cost, the learned Sessions Judge concerned would be free to take appropriate measures for non-payment.

The parties to the proceedings shall extend their co-operative before the learned Trial Court.

(R. T. VACHHANI, J)

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Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MANISHKUMAR JYOTINDRA SOMPURA(HC00189), Principal Pvt. Secretary, at High Court of Gujarat on 04/11/2026 14:32:37