IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY SUBORDINATE COURT) NO. 1744 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE R. T. VACHHANI sd/-

==========

Approved for Reporting	Yes	No
		no

==========

PARMAR PARULBEN VIJAYKUMAR @ DARBAR PARULBEN VIJAYKUMAR
Versus
STATE OF GUJARAT & ORS.

==========

Appearance:
JAY R SHAH(8428) for the Applicant(s) No. 1
MR JINESH H KAPADIA(5601) for the Applicant(s) No. 1
MR ROHAN H RAVAL ADDITIONAL PUBLIC PROSECUTOR for the Respondent(s) No. 1

==========

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

Date : 27/10/2026

ORAL JUDGMENT

1. By way of the present revision application under Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "the BNSS"), the applicant – original complainant has prayed to modify the judgment and order dated 28.02.2026 passed by the learned 4th Additional Sessions Judge, Nadiad (hereinafter referred to as "the learned Sessions Court") in Criminal Appeal No.356 of 2024, whereby, while confirming the conviction, the learned Sessions Court has extended the

Uploaded by PARMAR KRISH JAYESH(HC02348) on Fri Oct 30 2026 Downloaded on : Sat Oct 31 09:36:39 IST 2026

benefit of probation to the original accused Nos.1 to 4 – respondent Nos.2 to 5 herein.

2. Heard Mr. Jay R. Shah, learned advocate for the applicant – original complainant and Mr. Rohan H. Raval, learned Additional Public Prosecutor for the respondent No.1 – State.

3. Mr. Jay R. Shah, learned advocate for the applicant, has submitted that the accused – Bhavnaben is the sitting Sarpanch of the village and that she and her family members are politically influential persons in the locality. It is further submitted that even after the commission of the present offence, the accused persons have continued to indulge in serious offences against the society and several criminal antecedents are registered against them, which clearly reflects their settled propensity towards crime. It is submitted that such antecedents were specifically brought to the notice of the learned Sessions Court by the applicant by way of written objections; however, the learned Sessions Court has failed to consider the said material and no finding has been recorded thereon.

3.1 It is further submitted that before extending the benefit of probation, the learned Sessions Court was duty bound to examine the character, conduct and antecedents of the accused persons, along with the nature of the offence and the attending circumstances of the case. In the present case, none of the said considerations have been properly appreciated. The learned Sessions Court has solely relied upon the report of the Probation Officer, which is deficient and unreliable, without independently testing the same against the material available on record. The

Uploaded by PARMAR KRISH JAYESH(HC02348) on Fri Oct 30 2026 Downloaded on : Sat Oct 31 09:36:39 IST 2026

objections filed by the applicant, specifically pointing out the antecedents and the influential position of the accused persons, have neither been considered nor dealt with in the impugned judgment and order. It is, therefore, submitted that the impugned judgment and order is perverse, passed without due application of mind and contrary to the settled principles governing the grant of probation and hence, the same deserves to be quashed and set aside.

4. Per contra, Mr. Rohan H. Raval, learned Additional Public Prosecutor for the respondent – State, has vehemently opposed the present revision application and submitted that the learned Sessions Court has not committed any error in extending the benefit of probation to the accused persons. It is submitted that the benefit of probation has been extended subject to conditions and in the event of any breach thereof, appropriate action could have been taken against the accused persons; however, till date, no untoward incident has been reported against them. It is, therefore, submitted that no interference is called for at the hands of this Court in the impugned judgment and order and the present revision application deserves to be dismissed.

5. Having heard the learned advocates for the respective parties and having perused the material placed on record, it appears that on 08.01.2017, the accused persons picked up a quarrel with the prosecution witness on account of his contesting the election against them and assaulted him with a stick and a dhariya. On that basis, an FIR came to be lodged against the accused persons for the offences punishable under Sections 323, 324, 504, 506(2) and 114 of the Indian Penal

Uploaded by PARMAR KRISH JAYESH(HC02348) on Fri Oct 30 2026 Downloaded on : Sat Oct 31 09:36:39 IST 2026

Code, 1860 (for short, "the IPC"), which culminated into Criminal Case No.1906 of 2017. Upon conclusion of the trial and after appreciating the evidence on record, the learned Chief Judicial Magistrate, Nadiad, vide judgment and order dated 13.06.2024, convicted respondent Nos.2 to 5 and sentenced each of them to undergo simple imprisonment for three months for the offence punishable under Section 323 read with Section 114 of the IPC and simple imprisonment for six months for the offence punishable under Section 324 read with Section 114 of the IPC. Each of the accused was also directed to pay a fine of Rs.1,000/- and in default thereof, to undergo further simple imprisonment for one month.

6. Being aggrieved by the said judgment and order passed by the learned Chief Judicial Magistrate, Nadiad in Criminal Case No.1906 of 2017, the original accused Nos.1 to 4 preferred Criminal Appeal No.356 of 2024 before the learned Sessions Court, Nadiad. The learned Sessions Court, vide judgment and order dated 28.02.2026, while upholding the order of conviction recorded by the learned Chief Judicial Magistrate, Nadiad, was pleased to extend the benefit of probation to the accused persons, subject to their maintaining good behaviour and keeping peace in the society.

7. Being aggrieved by the said judgment and order passed by the learned Sessions Court, the original complainant has preferred the present revision application before this Court. At this juncture, it is pertinent to note that no untoward incident has been reported against the accused persons, nor has any breach of peace been committed by them. On the contrary, the

Uploaded by PARMAR KRISH JAYESH(HC02348) on Fri Oct 30 2026 Downloaded on : Sat Oct 31 09:36:39 IST 2026

accused persons have complied with all the conditions imposed upon them.

8. At the outset, it is required to be noted that the scope of interference in exercise of revisional jurisdiction is limited. While exercising such jurisdiction, this Court is only required to satisfy itself as to the correctness, legality or propriety of the finding, sentence or order recorded or passed by the Court below. It is well settled by a catena of judgments of the Hon'ble Supreme Court that, unless the impugned order suffers from patent illegality, perversity or a material irregularity resulting in miscarriage of justice, the revisional Court would not be justified in substituting its own view for the view taken by the Court below.

9. It is true that an accused cannot claim the benefit of probation as a matter of right. However, the object underlying the law of probation is reformatory in nature, i.e. to reform the offender rather than merely to punish him, which is the avowed aim of both the Court and the law. The Hon'ble Supreme Court, in a catena of judgments, has laid down the principles governing the extension of the benefit of probation and has consistently held that once the requisite conditions are satisfied, the Court is duty bound to consider whether the case before it is a fit case for releasing the offender on probation. The Court is vested with the discretion to extend such benefit on such terms and conditions as it may deem fit and proper.

10. In view of the foregoing discussion, this Court is of the considered opinion that the learned Sessions Court has not

Uploaded by PARMAR KRISH JAYESH(HC02348) on Fri Oct 30 2026 Downloaded on : Sat Oct 31 09:36:39 IST 2026

committed any error, much less an error apparent on the face of the record, in extending the benefit of probation to the accused persons. The impugned judgment and order does not suffer from any illegality, perversity or impropriety so as to warrant interference by this Court in exercise of its revisional jurisdiction.

11. Consequently, the judgment and order dated 28.02.2026 passed by the learned 4th Additional Sessions Judge, Nadiad in Criminal Appeal No.356 of 2024 is hereby confirmed.

12. Accordingly, the present revision application stands ***dismissed***. Record and Proceedings, if any, be sent back to the concerned Court forthwith.

sd/-

(R. T. VACHHANI, J)

PARMAR KRISH

Uploaded by PARMAR KRISH JAYESH(HC02348) on Fri Oct 30 2026 Downloaded on : Sat Oct 31 09:36:39 IST 2026