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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010385912026

+ **CRL.M.C. 6092/2026**

K NATRAJ PAHANI & ORS.

.....Petitioners

Through: Mr. Ashim Shridhar, Adv.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Richa Dhawan, APP with SI
Chetan Panwar and ASI Shamsheer, PS
Chhawla

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

ORDER

% **19.08.2026**

1. This hearing has been done through hybrid mode.

CRL.M.A. 25481/2026 (seeking exemption)

2. Allowed, subject to all just exceptions. Application stands disposed of.

CRL.M.C. 6092/2026

3. This is a petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), seeking setting aside of the Judgement dated 01.06.2026 passed by learned Special Judge NDPS-01, Dwarka Courts, South-West, New Delhi in Criminal Appeal no. 351 of 2025 titled as "*Natraj Pahani Kasinadhuni & Ors. V. State of NCT of Delhi & Anr.*".

4. The grievance of learned counsel appearing for the petitioners is that the issue of limitation was neither raised nor argued before the learned Appellate Court and that the impugned judgment has, nevertheless, dismissed



the appeal solely on the ground of limitation, without affording the petitioners an opportunity to explain the delay or seek its condonation. Ld counsel has placed reliance upon ***State of M.P. & Anr. v. Pradeep Kumar & Anr. (2000) 7 SCC 372.***

5. Learned APP for the State, appearing on advance notice, submits that the proceedings arise out of a kalandra and that the Investigating Officer has followed the due process of law.

6. I have perused the record as well as the impugned order. The Hon'ble Supreme Court in ***State of M.P. & Anr. v. Pradeep Kumar & Anr. (Supra)*** has held as under:

“ 11. No doubt sub-rule (1) of Rule 3-A has used the word “shall”. It was contended that employment of the word “shall” would clearly indicate that the requirement is peremptory in tone. But such peremptoriness does not foreclose a chance for the appellant to rectify the mistake, either on his own or being pointed out by the court. The word “shall” in the context need be interpreted as an obligation cast on the appellant. Why should a more restrictive interpretation be placed on the sub-rule? The Rule cannot be interpreted very harshly and make the non-compliance punitive to an appellant. It can happen that due to some mistake or lapse an appellant may omit to file the application (explaining the delay) along with the appeal.”

7. In the present case, it appears that no application seeking condonation of delay was filed by the petitioners. However, it also appears that the petitioners were not afforded any opportunity, even orally, to explain the reasons for the delay in filing the appeal before the learned Appellate Court.

8. In these circumstances, and having regard to the principles laid down by the Hon'ble Supreme Court, this Court is of the view that the impugned judgment deserves to be set aside and the matter remanded to the learned Appellate Court for consideration afresh.



9. Accordingly, the impugned judgment dated 01.06.2026 is set aside. The matter is remanded to the learned Appellate Court to consider the appeal afresh, after affording due opportunity to the petitioners to explain the delay and, if so advised, to seek condonation thereof in accordance with law.
10. Parties are directed to appear before the learned Appellate Court on 08.09.2026.
11. A copy of this order be sent to the learned trial court for necessary compliance and information.
12. The order be uploaded on the website *forthwith*.

MADHU JAIN, J

AUGUST 19, 2026/JYH/sd