

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 20 OF 2016
IN
CRIMINAL REVISION APPLICATION NO. 608 OF 2015**

Syamkishore Murlidhar Garikapatti

... Applicant

vs.

The State of Maharashtra

... Respondent

Mr. S. I. Passbola i/by Mr. Rahul Arote, Advocate for the applicant.
Ms. S. V. Gajare, Additional Public Prosecutor for the State.

Coram : Smt. R. P. SondurBaldota, J.

Date : 2nd March, 2016.

P.C.:

1. This application is for condonation of delay of 13 years and 253 days in filing the present revision application to challenge the order dated 4th February, 2002, by which the Sessions Court dismissed his application for discharge. The petitioner is charged along with other accused of offences punishable under Section 302 r/w Sections 34, 120-B of I.P.C. read with Section 25(c) of Indian Arms Act in respect of murder of one Ghanshyam Sunderdas Bhatija. The applicant had earlier challenged the impugned order by preferring Criminal Revision Application in this Court. During the pendency of that application, he was released on bail on 4th

February, 2002. Since then he was not attending the Court and also was not available to the police. Consequently, he was declared as absconder. Thereafter his criminal revision application was withdrawn. In the year 2003, a non-bailable warrant was issued against him. It took twelve years for the police to trace him and he was rearrested on 18th February, 2015. Immediately thereafter he filed Criminal Application No.848 of 2015 under Section 482 Cr.P.C. to renew his prayer for discharge. On 17th December, 2015, he withdrew that petition with liberty to file criminal revision application. Pursuant to that liberty he filed the revision application herein on 30th January, 2016 along with the present application for condonation of delay.

2. The cause for delay set out in the application is that on account of his prolonged custody, during the period 1994 to 1999 he contracted with Tuberculosis and Hemoptysis for which he was treated time and again at various hospitals. When his health condition deteriorated Medical Board was constituted. The Medical Board examined him on 21st January, 1999 for the ailments and the treatment, being given to him. The ailments, however, continued. While the applicant was absconding, it is claimed, that he was essentially in and out of hospitals at Bangalore and Andhra Pradesh.

3. The very fact that the applicant had absconded will disentitle him for condonation of delay in approaching the Court to challenge the impugned order. His illness during the period when he was absconding, for the same reason cannot help him. Thus, there is no case, whatsoever, made out by the applicant for condoning the delay. Hence, the application is dismissed.

4. In view of the dismissal of the application for condonation of delay, Criminal Revision Application No.608 of 2015 does not survive. The revision application is, accordingly, disposed off.

[Smt. R. P. SondurBaldota, J.]