

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1208 OF 2014

Anil Jagdishchandra Patel	...	Applicant
Vs.		
State of Maharashtra & Anr.	...	Respondents

Mr. Chetan Akerkar, Adv. for the applicant.
Mrs. G.P. Mulekar, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 7th January, 2016.

P.C. :

1. This is an application under Section 482 of the Cr. P.C. filed by the aforesaid applicant challenging the impugned order dated 1st November, 2014 whereby the learned Sessions Court, Mumbai dismissed the application for condonation of delay mainly on the ground that the applicant herein had not explained day today delay.

2. Heard Mr. Akerkar, the learned counsel for the applicant and Mrs. Mulekar, the learned APP for the State. I have perused the record and considered the submissions advanced by the counsels for the respective parties. The records reveals that the State had filed an application under Section 173(8) of the Cr.P.C. The said application

was dismissed by the learned Magistrate by an order dated 9th May, 2013. The said order was not challenged by the prosecution. The applicant had sought to challenge the said order and had filed the revision application along with the application for condonation of delay. In paragraph 3 of the application the applicant had stated that he had gained knowledge of the said order only in the month of May, 2014. The applicant had applied for the certified copy of the order on 15th May, 2014 and the same was received on 23rd May, 2014. The revision application along with the application for condonation of delay was filed on 27th June, 2014. In the light of the said averments in the application, the learned Magistrate was not justified in holding that the applicant had not made out any sufficient cause to explain the delay. Furthermore it is well settled that the applicant is not required to explain each and every days delay in filing the application, but has to explain whether he had sufficient cause for not filing the application within the stipulated time. In the instant case, the applicant has stated that he had learnt about the said order only in May, 2014 and thereafter applied for the certified copy on 15th May, 2014 and filed the application on 23rd May, 2014. The grounds spelt out by the applicant constitute sufficient ground.

3. Under these circumstances the application is allowed. The delay in filing revision application is condoned. The learned Addl. Sessions Judge, is directed to decide the revision application on its own merits.

(ANUJA PRABHUDESSAI, J.)