

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 1091 of 2013**

The State of Chhattisgarh Through: District Magistrate Korba(C.G.)

**---- Petitioner**

**Versus**

Ram Singh Yadav S/o Natthu Ram Yadav Aged About 44 Years R/o  
Rani Road, Dhanuhar Para, P.S. Kotwali Korba, Distt.-Korba, C.G.

**---- Respondent**

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For State/petitioner - Shri Sangarsh Pandey, Dy.G.A.  
For respondent- Shri Basant Dewangan, Advocate.

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order**

**17/07/2017**

1. Heard on application for condonation of delay under Section 5 of the Limitation Act.
2. Leave to appeal has been filed after delay of 765 days.
3. Perused the application under Section 5 of the Limitation Act wherein reasons has been stated that delay is resulted due to fulfillment of of various departmental formalities and working of the Government machinery because of the fact that State Government is multi functioning body. Acquittal order is dated 8/08/2011.
4. Facts of this case are that on 17/06/2009 from the possession of the applicant from the vehicle which was of the applicant 2 kgs 700 gms of cannabis were found. Statement of M.B. Patel (PW-7) would show that vehicle from which the cannabis were seized he has not enquired as to whom vehicle belong. He also admitted the fact that he has not seized the driving licence from the applicant. Perusal of the copy of the record which is filed and reading statement of IO PW-7 would show that three packets were given to the Malkhana Moharir by Ex.P-14 which was registered in

malkhana register No.32 and the malkhana register has been proved as Ex.P-13. Ex.P-4 the receipt would show that there has been over writing was made as such how many packets were deposited in the malkhana from the IO has not been shown in Ex.P-14. Order of the trial court which has recorded that as per Sr. No.31 of the register of the malkhana would show that deposit were made earlier to the date and the particulars of the packets seized also did not tallied with the seizure which raises doubt as to cannabis which were seized from the accused were actually deposited is not been made clear. PW-7 also have not stated that after completion of the entire seizure information was sent in compliance to section 57 of the NDPS Act. The scooty which was seized were shown to be of one Shailesh Kumar Agrawal who has not been made an accused and the connection in between the possession of the vehicle and the cannabis and the accused has not been established.

5. Consequently, taking into totality and the reasons which has been assigned for filing of the appeal after delay of 765 days, I do not find any reason to entertain the application for grant of leave to appeal.

6. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE