

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.35 OF 2019

IN

CRIMINAL APPEAL (ST) NO.34 OF 2019

Rashid Kasim @ Kashid Tamboli & Anr. **...Applicants**

V/s.

The State of Maharashtra **...Respondent**

Mr. Gaurav Parkar, Advocate for the Applicants.

Mr. S.V. Gavand, APP for the Respondent/State.

CORAM : A.M.BADAR J.

DATED : 15th FEBRUARY 2019

P.C. :

1. This is an application for condonation of delay in preferring the appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'Atrocities Act' for the sake of brevity).
2. The appeal occasioned in preferring the appeal is that of 216 days.

3. Heard the learned Counsel appearing for the applicants/accused. By placing reliance on judgment of full Bench of Allahabad High Court in *Re:Provision of Section 14a of SC/ST (Prevention of Atrocities) Amendment Act, 2015*¹, the learned Counsel argued that second proviso to Section 14-A(3) of the Atrocities Act is struck down by full Bench of the Hon'ble Allahabad High Court and as such there is no impediment in condonation of delay of 216 days. The learned Counsel argued that sufficient cause is shown in not preferring the appeal within limitation.

4. The learned Additional Public Prosecutor opposed the application. He however did not dispute the fact that full Bench of Allahabad High Court has been pleased to struck down second proviso to Section 14-A(3) of the Atrocities Act.

5. I have considered the submissions so advanced and perused the application. The applicants/accused preferred an application for anticipatory bail before the learned Special Court, but the same was rejected. Reasons stated for delay in filing the appeal is

¹ MANU/UP.3483/2018

penury. It is averred that for want of monetary resources, the applicants/accused could not file appeal within limitation.

6. I am of the considered view that the applicants/accused have made out sufficient cause for not preferring the appeal within limitation. It is noted that second proviso to Section 14-A(3) is already struck down by the Hon'ble Allahabad High Court, the delay in filing the appeal is condoned.

7. The application, is therefore, disposed of.

(A.M.BADAR J.)