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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.34 OF 2019
IN
CRIMINAL APPEAL(S) NO.33 OF 2019

Mr.Sameer @ Islam Mujibar Shaikh] ..Applicant.

v.

The State of Maharashtra & Ors.] ..Respondents.

Mr.Aamir Shaikh, for the Applicant.

Mr.Vikas Singh, Appointed Advocate for Respondent No.2

Mr.V.B.Konde-Deshmukh, APP for the State.

**CORAM : INDRAJIT MAHANTY &
 N.B.SURYAWANSHI, JJ.**

DATE : 18th SEPTEMBER, 2019.

P.C.

1] This application is preferred for condonation of delay of 1 year and 200 days in filing the present appeal challenging the rejection of bail for offence under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2] Learned counsel for the Applicant has placed reliance on the Judgment in the case of **In Re : Provision of Section 14a of SC/ST (Prevention of Atrocities) Amendment Act,**

2015 vs. Nil reported in 2018 CriLJ 5010, wherein full Bench of the Allahabad High Court has held that,

“The second proviso to Section 14A(3) is clearly violative of both Articles 14 and 21 of the Constitution. It is not just manifestly arbitrary, it has the direct and unhindered effect of taking away the salutary right of a first appeal which has been recognised to be an integral facet of fair procedure enshrined in Article 21 of the Constitution. The absence of discretion in the Court to consider condonation of delay even where sufficient cause may exist renders the measure wholly capricious, irrational and excessive. It is consequently struck down.”

3] In the light of ratio laid down by the Full Bench of the Allahabad High Court and for the reasons stated in the Criminal Application particularly the reason of financial difficulty, which according to us is sufficient cause, we allow the application in terms of prayer clause (a). Accordingly, Criminal Application No.34 of 2019 stands disposed off.

[N.B.SURYAWANSHI, J]

[INDRAJIT MAHANTY, J]