

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPA) NO.855/2018

Sushil s/o Rambharose Bohariya .vs. State of Maharashtra through PSO P.S.
Ramnagar, Chandrapur.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mrs. S. P. Kulkarni, Advocate Appointed for applicant.
Mr. S. M. Ghodeswar, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 14, 2019

This is an application for condonation of delay, challenging the judgment and order passed by learned Additional Sessions Judge, Chandrapur dated 21.06.2014 in Sessions Case NO.140/2012 for an offence punishable under Sections 224, 186 and 333 read with Section 34 of the Indian Penal Code.

I have heard Mrs. Kulkarni, Advocate appointed through Legal Aid Committee for the applicant and Mr. Ghodeswar, learned A.P.P. for the non applicant-State. I have also perused the reply filed on behalf of the State. Present is the application for condonation of delay. The delay is of 4 years 8 days.

Initially, the applicant was convicted by the Court below in Sessions Case No.132/2005 for an offence under Sections 147, 148, 149, 302 of the Indian Penal Code and under Section 25 of the Arms Act and was directed to suffer imprisonment for life. From the

reply, it is also clear that he is also convicted for the relevant sections of the Narcotics Drugs and Psychotropic Substances Act.

It appears that when the appellant was released on furlough, he failed to return to the prison on his own. Therefore, he was brought by police. The overstaying by the applicant was 455 days. Therefore, case was filed against him that was registered as Sessions Case No.140/2012 in which the Court below has convicted him and directed to suffer imprisonment for six months along with with fine of Rs.500/-. As per submission of the learned A.P.P. the appellant is in jail.

In view of the fact that the appellant is in jail, I take a lenient view for condoning the delay though, strictly speaking, this Court could have rejected the application itself. However, the delay is condoned only because the applicant is in jail.

In view of the above, the application is allowed. Delay of 4 years and 8 days is condoned. The application is disposed of.

Registry is directed to register the appeal and fix the same in the next week.

JUDGE