

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.1762 OF 2020
IN/WITH
CRIMINAL APPEAL (ST.) NO.520 OF 2020**

Ganesh s/o Raghunath Yewale

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr S. I. Ghatte and Mr Dinesh U. Manwatkar, Advocates for
applicant;

Mr R. V. Dasalkar, A.P.P. for respondent/State

**CORAM : RAVINDRA V. GHUGE
AND
B. U. DEBADWAR, JJ.**

DATE : 24th November, 2020

PER COURT:

1. We have heard the learned Advocates appearing on behalf of the applicant - convict and the learned APP on behalf of the State.

2. We have perused the reasons assigned by the applicant for seeking condonation of delay of 398 days caused in filing the appeal seeking to challenge the judgment of conviction delivered by the learned Additional Sessions Judge-7, Aurangabad in Sessions Case No.396 of 2016, dated 29-01-2019.

(2)

3. The learned Prosecutor strenuously opposed the application and prayed that the delay is not reasonably explained and is quite large. He, therefore, prayed for the rejection of the criminal application.

4. We find that laches are not attributable to the conduct of the applicant, who is in jail ever since his conviction. Though the delay may appear to be a bit large, it cannot be branded as being inordinate or deliberate. If the delay is not condoned, the doors of litigation would be closed on the applicant and he would never get an opportunity of challenging his conviction.

5. In view of the above, this application is allowed. The delay of 398 days is condoned without costs as the applicant is undergoing the sentence.

6. In view of above, the criminal appeal stands registered. As the appellant is challenging his conviction for having committed an offence punishable under Section 302 of the Indian Penal Code, the criminal appeal is **ADMITTED**. The learned APP waives service on admission.

7. Call for record and proceedings in Sessions Case No.396 of 2016 decided vide judgment dated 29-01-2019 from the learned Additional District and Sessions Judge-7 at Aurangabad.

8. At this juncture, the learned Advocate for the appellant submits that he has placed copies of the depositions on record and can canvass his application for suspension of sentence and bail without the assistance of the paper book.

9. Hence, stand over to 4th December, 2020 for hearing on Criminal Application No.1763 of 2020.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

sjk