

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.500 OF 2021
IN APEALST/1399/2021

ASHOK BARKU SAUDAGAR
VERSUS
THE STATE OF MAHARASHTRA

Mr.S.P.Salgar, Advocate for the applicant (appointed).
Mr.S.D.Ghayal, APP for State/respondent.

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

DATE : MARCH 3, 2021

PER COURT :

1. By this application, the appellant prays for condonation of delay of 605 days caused in preferring the appeal against the judgment and order dated 25/04/2019 delivered by the Trial Court in Sessions Case No.52/2018. The accused was convicted for an offence punishable u/s 302 r/w Section 201 of the IPC and was sentenced to suffer rigorous imprisonment for life.
2. We are informed that the period of exemption on account of the National Lockdown due to the Covid-19 pandemic is from 24/03/2020 till 31/01/2021. The delay period is therefore, further curtailed.
3. We have heard the learned Public Prosecutor.

4. We are of the view that the delay, taking into account the period of lock down, would not appear to be inordinate or deliberate. If such delay is not condoned, the applicant, who is presently serving out his sentence in jail, would not be able to question his conviction and his substantive right of appeal would be taken away. No loss, harm or prejudice would be caused to the State if the delay is condoned.

5. As such, this application is allowed. The delay in preferring the appeal stands condoned. We are not imposing costs since the appellant is serving out his sentence.

CRIMINAL APPEAL STAMP NO.1399/2021

6. Since we find that there are no objections, the appeal stands registered. We have heard the learned Advocate and the learned Prosecutor on the appeal. Since the appellant seeks to challenge his conviction and sentence of rigorous life imprisonment u/s 302 and 201 of the IPC, the appeal is **Admitted**. The learned Prosecutor waives service of notice on admission.

7. The learned Trial Court at Aurangabad is requested to prepare the appeal paper book in Sessions Case No.52/2018 decided on 25/04/2019, within 4 (four) months from today and transmit the same alongwith the

original R & P and the muddemal property, to this Court by 15/09/2021.
The application for suspension of sentence shall be considered after receipt of the appeal paper book.

(B.U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)