

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

**CRIMINAL APPLICATION NO.502 OF 2021
IN CRIMINAL APPEAL NO. (ST) 1402 OF 2021
WITH
CRIMINAL APPEAL NO.105 OF 2019**

**SATISH PANCHRAM HIRWE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Shri C. V. Dharurkar (Appointed)
Advocate for Applicant : Shri S. S. Gangakhedkar
(In Cr.Appeal No.105/2019)
APP for Respondent - State : Shri S. D. Ghayal
...

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

DATE : 08TH MARCH, 2021

PER COURT :

1. The learned advocate representing the applicant has been appointed through Legal Aid. The applicant is one of the convicts in the judgment delivered by the trial Court dated 18-01-2019 in Sessions Case No.65 of 2016, vide which, both the accused have been sentenced to suffer imprisonment for life for having committed an offence punishable under Section 302 read with Section 34 of the Indian Penal Code with other sentences for having committed offences punishable under Section 364 read with Section 34, Section 392 read with Section 397 and Section 201 read with Section 34 of the Indian Penal Code.

2. Accused No.1 in the said case has already preferred Criminal Appeal No.105 of 2019, which has been admitted. The present applicant is accused No.2. The Co-ordinate Bench of this Court, while dealing with Criminal Application No.477 of 2019 filed by accused No.1, has noted the circumstances in which the present applicant could not prefer an appeal and hence, he was given Legal Aid assistance, in it's order dated 22-04-2019.

3. We have heard the learned advocate for the respective sides. By this application, the present applicant prays for condonation of delay of 701 days caused in filing the criminal appeal. This delay is computed from the expiry of the limitation period. However, there was a national lock-down effective from 24th March, 2020 till 31st January, 2021. By subtracting this period, which is exempted from the delay, the delay would be further reduced.

4. We are of the view that if the delay is not condoned, the applicant would lose a valuable right of challenging his conviction and sentence. We do not find laches attributable to the conduct of the applicant, in as much as, we do not find the delay, after subtracting the lock-down period, to be deliberate or inordinate.

5. In the light of the circumstances noted as above and for

the reasons set out in the application, the same is allowed. The delay is condoned without imposing costs, as the applicant is presently serving out his sentence.

6. Criminal Appeal (Stamp) No. 1402 of 2021, in the absence of objections, is registered. The same is **Admitted**. The learned prosecutor waives service of notice on admission.

7. Since the appeal paper-book is already received and record and proceedings are before the Court, this appeal shall be tagged along with Criminal Appeal No.105 of 2019, for final hearing.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)