

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

902 CRIMINAL APPLICATION NO.559 OF 2021

IN

CRIMINAL APPEAL (ST.) NO.1557 OF 2021

WITH

CRIMINAL APPEAL (ST.) NO.1557 OF 2021

WITH

CRIMINAL APPLICATION NO.560 OF 2021

IN

CRIMINAL APPEAL (ST.) NO.1557 OF 2021

TULSHIRAM KHEMCHAND DURBE

**.. Applicant /
Appellant**

VERSUS

THE STATE OF MAHARASHTRA

.. Respondent

...

**Advocate for the Applicant/appellant : Mr Dhanraj Ingole h/f.
Mr Nilesh S. Ghanekar**

APP for Respondent / State : S.G. Sangle

...

CORAM : RAVINDRA V. GHUGE

AND

B. U. DEBADWAR, JJ.

Date : 10-03-2021

PER COURT :-

(CRIMINAL APPLICATION NO.559 OF 2021) :

1. By this application, the applicant - convict prays for condonation of delay of 483 days caused in filing the appeal. He has been convicted by the Judgment dated 31-08-2019 delivered by the

Gajanan

learned Additional Sessions Judge, Aurangabad in Sessions Case No.290 of 2016, for having committed an offence punishable under Section 302 of the Indian Penal Code, 1860. He has been sentenced to suffer imprisonment for life.

2. The learned Advocate for the applicant submits that, as the applicant was serving out his sentence, he was unable to prefer the appeal. The moment, he has been released on emergency parole under Rule 19 (1)(C) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959, he has preferred this application.

3. We find that, though the delay appears to be 483 days, the period of the national lock-down from 24-03-2020 till 31-01-2021 needs to be subtracted and that would reduce the delay to 254 days. The learned Prosecutor has opposed the application.

4. We do not find that the delay could be termed as deliberate or inordinate. Moreover, if the delay is not condoned, the applicant would lose a valuable right of challenging his conviction and sentence.

5. As such, this application is allowed. We are not imposing costs as the applicant is a convict.

Criminal Appeal (Stamp) No.1557 of 2021 :

6. Considering that the appellant seeks to challenge the judgment dated 31-08-2019, vide which, he has been convicted for murdering his wife and has been sentenced to suffer imprisonment for life, the appeal is **admitted**. The learned Prosecutor waives service on admission.

7. The learned Advocate for the appellant submits that, he would canvass Criminal Application No.560 of 2021 seeking suspension of the substantive sentence and enlargement on bail, after the Record & Proceedings is received. Hence, we request the learned Court of Sessions, Aurangabad to prepare the appeal paper-book in Sessions Case No.290 of 2016 decided on 31-08-2019, as expeditiously as possible and preferably, on or before 30-06-2021. The paper book shall be transmitted along with the Record & Proceedings and the muddemal property, to this Court on or before **31-08-2021**.

(B. U. DEBADWAR)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE