

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

922 CRIMINAL APPLICATION NO.2848 OF 2021
IN APEALST/8265/2021

SANJAY BHIKAJI KAPADE
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Jadhav Sunil Bappasaheb
APP for Respondent no.1-State: Mr. S. J. Salgare
...

CORAM : V. K. JADHAV AND

SANDIPKUMAR C. MORE, JJ.

DATED : 4th DECEMBER, 2021.

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PER COURT :

1. Heard both sides.
2. Issue notice to the respondents. Learned APP waives notice for respondent no.1-State.
3. Leave to delete name of respondent no.2- original informant since respondent no.2 / informant is impleaded as party respondent merely for the reason that the trial court has awarded the compensation out of the fine amount.
4. Respondent no.2 is already impleaded as a party respondent

in the main application.

5. The delay of 1245 days caused in filing the criminal appeal against the judgment and order of conviction dated 27/04/2018 passed by the Additional Sessions Judge, Shrirampur, in Sessions Case No. 36 of 2016 convicting thereby applicant / accused for the offences punishable under Sections 302 of IPC and sentencing him to suffer imprisonment for life which shall mean, till the end of his natural life and to pay a fine of Rs.1,00,000/-, in default, rigorous imprisonment for three years and under Section 394 of IPC to suffer rigorous imprisonment for ten years and to pay a fine of Rs.25,000/-, in default, rigorous imprisonment for one year.

6. Learned counsel for the applicant submits that the applicant was in jail during the course of the trial and applicant came to be arrested in connection with the crime on 17th June, 2016 and the trial of the Sessions Case No. 36 of 2016 was ended in conviction by judgment and order dated 27/04/2018. Learned counsel submits that there is nobody in the family of the applicant to look after his case except his illiterate wife.

7. We have also heard learned APP for the State.

8. It appears that the applicant was in jail during the course of the trial. The applicant is a poor person having old aged parents and wife. His wife is also illiterate. There is no body to look after them. The applicant was the only earning member of the family. In view of the same, we are inclined to condone the delay. Hence, the following order.

O R D E R

- I) Application is hereby allowed in terms of prayer clause "A".
- II) Criminal application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-