

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL INTERIM APPLICATION NO.2626 OF 2021
IN
CRIMINAL APPEAL NO.423 OF 2013

Ms. Samruddhi Umesh Samant and anr. : Applicants.

In the matter between

Umesh Rajaram Samant (Deceased) : Appellant/Org.Accused

versus

The State of Maharashtra : Respondent.

Mr. Amit Mane i/by Mr. Vinayak R Kumbhar for the Applicants.

Ms. G P Mulekar, APP for the Respondent/State.

CORAM : S. S. SHINDE,
SURENDRA P TAVADE, JJ

DATE : 16th NOVEMBER 2021

P.C.

1 This is an Application filed by the Applicants for allowing them to bring themselves on record as the legal heirs of the deceased Appellant – Umesh Rajaram Samant in the aforesaid Criminal Appeal No.423 of 2013 and permitting them to continue the appeal.

2 The learned counsel for the Applicants submitted that the Appellant – Original Accused died on 29th November 2020. It is also submitted that the deceased Appellant was convicted for the offence punishable under

Section 302 of the Indian Penal Code, and sentenced to suffer for life imprisonment. It is further submitted that the Appellant was undergoing life sentence in Kalamba Prison, Kolhapur where he was reported to be died.

3 The Applicants, who are the legal heirs of the original Appellant, have preferred this Application for permitting them to continue the appeal after condoning the delay. The learned counsel for the Applicants submitted that there is a delay of 8 months and 21 days in filing this Application. He contended that the Applicants were not aware of the procedure to file the Application, and therefore, there is a delay in preferring this Application.

4 In support of his submission, the learned counsel for the Applicants sought to rely upon the ratio laid down in the case of *Chandrashekhar vs State of Maharashtra*, reported in MANU/MH/0719/1991 wherein the legal heir of the original Appellant had preferred a application for permitting him to continue the appeal under Section 394 of the Criminal Procedure Code after condoning the delay. In the said case, the delay was of 1139 days and the District Court had passed the order of abatement of the Appeal. This Court set aside the said order and directed the District Court to proceed with the Appeal and decide it according to law.

5 In the present case, there is a delay of 8 months and 21 days in

filing the Application. In view of the reasons given in the present Application, the same is required to be allowed. The delay in filing the Interim Application No.2626 of 2021 is condoned. The Interim Application is allowed. The Applicants are permitted to continue the Appeal No.423 of 2013. The Applicants to carry out necessary amendments in the Criminal Appeal No.423 of 2013 within a period of one week from today. On the amendment being carried out, liberty is granted to the learned counsel for the Applicants to circulate the matter for hearing. The Interim Application stands disposed of accordingly.

[SURENDRA P. TAVADE, J]

[S. S. SHINDE , J]