

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
INTERIM APPLICATION NO. 957 OF 2019  
in  
CRIMINAL APPEAL STAMP NO. 1451 of 2019**

Rupesh Tukaram Kumbhar

....Applicant/  
Appellant

**Versus**

The State of Maharashtra

....Respondent

Mr. Dheeraj Panchange, advocate for the applicant/appellant.  
Mr. Arfan Sait, APP for the State.

**CORAM : PRASANNA B. VARALE &  
S. M. MODAK, JJ.**

**DATE : 13<sup>th</sup> JANUARY, 2021.**

**P.C. :**

1. The applicant is accused No.2 in the Sessions Case No.14 of 2006 arising out of FIR I-5 of 2006 registered with Guhagar Police Station for the offences punishable under section 364 read with sections 34, 394, 397, 302 read with section 34 of the Indian Penal Code, 1860. The learned Trial Court on conclusion of trial and on assessment of evidence was pleased to record the judgment and order of conviction of the accused person for the offences punishable under section 302 read with section 34 of the Indian Penal Code, 1860 and awarded sentence to the applicant to suffer rigorous imprisonment and to pay fine of Rs.200/-, in default of payment of fine, to undergo imprisonment of 8 days vide judgment and order dated 16<sup>th</sup> October, 2008.

2. The learned counsel appointed through the Legal Aid Services Authority representing the applicant invited our attention to the grounds stated in the application and more particularly paragraphs 10 and 11 to submit that the delay caused in filing the appeal is due to bonafide reasons. Perusal of the statement in paragraph 11 shows that the applicant is an illiterate person and daily earner, and the family of the applicant due to lack of knowledge of legal proceedings and more particularly due to financial constraints were unable to take any steps within reasonable time. They were also unable to seek legal assistance of any private counsel due to their financial constraints and ultimately when the application was forwarded through jail in the nature of an appeal challenging the judgment and order of conviction, legal assistance was provided to the applicant through Legal Aid Services Authority.

3. Considering all the above facts, we are of the opinion that the learned counsel for the applicant has made out a case for condonation of delay though the delay is of 11 years and some odd months. Accordingly, the application is allowed and delay is condoned. The criminal application stands disposed of.

4. All concerned will act on production by fax or email of a digitally signed copy of this order.

**( S. M. MODAK, J.)**

**(PRASANNA B. VARALE, J.)**