

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**CRIMINAL APPLICATION [APPA] NO. 392 OF 2020**  
**IN CRIMINAL APPEAL NO. 428 OF 2020.**

The State of Maharashtra through CBI, Nagpur

**-VERSUS-**

Sanjeev Shyamrao Desale

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders

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Ms. M.R. Chandurkar, Advocate for the Applicant.  
Shri A.M. Quazi, Advocate for the Non-applicant.

**CORAM : VINAY JOSHI, J.**

**DATE : SEPTEMBER 27, 2021.**

Heard.

2. This is an application seeking condonation of delay caused in filing an appeal challenging the order of acquittal passed in Special Criminal (ACB) Case No.3/2013, by the Special Judge, Bhandara vide its judgment and order dated 28.08.2019. The CBI has investigated and charge sheeted the non-applicant for the offence punishable under Sections 7, 13[2] read with Section 13[1][d] of the Prevention of Corruption Act. On trial, it was held that the alleged offences were not proved, which resulted into acquittal of non-

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applicant- accused.

3. The applicant – CBI being dissatisfied with the order of acquittal, have preferred the appeal, but, since there is delay, this application for condonation of delay.

4. In response to the notice issued to the non-applicant [original accused], he appeared and filed reply dated 19.09.2021. In short, it is contended that the delay is huge for which there is no plausible explanation, hence, it cannot be condoned.

5. I have heard both the sides and perused the material made available. The applicant – CBI endeavored to show that the entire time was consumed in obtaining comments from the higher authorities, its opinion, approval etc. The procedure has been elaborated in paragraph nos. 5 to 9 of the application. In short, it is their contention that after obtaining certified copy of the judgment, it was marked to the prosecutor of CBI at Nagpur for comments. Then it was routed to CBI Bhopal for obtaining comments from the Joint Director, CBI, Bhopal Zone-II, then to the Additional Director, CBI, New Delhi and so on. A chart

indicating the movement was filed. On query, the learned Counsel for the applicant has handed over compilation of 11 documents for perusal. Those documents pertain to internal correspondence showing the movement of the file, as has been pleaded.

6. Besides that, it is submitted that since 15.03.2020, due to global pandemic situation, the period of limitation has been extended by the Supreme Court, which is prevailing till date.

7. The learned Counsel for the non-applicant would submit that the period of limitation has expired on 17.11.2019 i.e. prior to the order of the Supreme Court of extension of period of limitation, which has come into force from 15.03.2020. It is his contention that since the prescribed period was already over, the applicant cannot take benefit of the order passed by the Supreme Court extending the period of limitation. By placing reliance on the decision of the Supreme Court in case of **State of Madhya Pradesh and others .vrs. Bherulal (2020 SCC Online SC 849)**, it is submitted that there can be no special treatment to government authorities. He has also taken me through certain

observations in which the mode and manner of the government functionaries in not following the law of limitation has been criticized.

8. True, in case at hand, the period of limitation has expired on 17.11.2019. The order of Supreme Court in *Suo Motu Writ Petition No.3/2020* in effect has exempted computation of limitation from 15.03.2020, which has been renewed from time to time, and now extended till 02.10.2021. Though not strictly, the applicant can get the benefit of the order of extension of period of limitation, however, that needs consideration from the view point of assessing the length of delay. Calculation shows that there is delay of near about 4 months preceding the date of commencement of extension order. In said context, I have thoroughly considered the reasons stated in the application, vis-a-vis to the connected documents shown in support. There can be no doubt that the government machinery could have moved fast, as the period of limitation was within their knowledge. However, it cannot be said that the action taken by the CBI lacks bonafide or the period consumed was

intentional, since it would at their detriment. The other side is not in a position to demonstrate that there are any malafides or deliberate negligence. It is a settled law that if the reasons canvassed for delay are justifiable and can be explained, then the Court should take a liberal view while condoning delay.

9. The reasons set out in the application are well supported by the documents which are made available during the course of hearing. It cannot be said that the delay was either intentional or deliberate. Moreover, due to current pandemic situation, some more time was consumed in filing this application. In view of that, I find that the applicant has made out a sufficient cause for condonation of delay. Hence, the application stands allowed. Delay caused in filing the appeal against acquittal is condoned. Office to proceed further.

**JUDGE**

Rgd.