

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

**944 CRIMINAL APPLICATION NO.1162 OF 2020
IN APEALST/378/2020**

**LAHU S/O. DEORAM PAWAR
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. S. S. Londhe
APP for Respondent no.1-State: Mr. S. S. Dande
Advocate for Respondent no.2 : Mr. Ujwal Patil (appointed)

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**CORAM : V. K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 9th MARCH, 2022.

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P. C. :

1. Heard both the sides.
2. By judgment and order of conviction dated 25/01/2019 the Additional Sessions Judge, Ahmednagar in Special Case No. 245 of 2017 convicted the appellant / accused for the offence punishable under Sections 6 of the POCSO Act and 363 of IPC and sentenced him to suffer imprisonment for life and to pay a fine of Rs.50,000/-, in default, R.I. for five months for an offence punishable under Section 6 of the POCSO Act and sentenced to suffer R.I. for three years and to pay a fine of Rs.10,000/-, in default, S.I. for two

months for an offence punishable under Section 363 of IPC. Though the learned Additional Sessions Judge has found the accused guilty under Section 376(2)(f) and 376(E) of IPC, no separate sentence has been passed. Further, out of the fine amount, an amount of Rs.50,000/- is directed to be paid to the informant i.e. mother of the victim girl, for and on behalf of the victim girl.

3. The applicant has preferred the appeal against the said judgment and order of conviction which is delayed by 355 days.

4. Learned counsel for the applicant / accused submits that the applicant / accused was under trial and he is in jail since date of his arrest in connection with the crime. The learned appointed counsel submits that the applicant / accused has submitted his application for legal aid through jail and certain time was consumed for processing the said application. Learned counsel submits that there was no intentional delay as such and the applicant was prevented from sufficient cause to prefer appeal within limitation.

5. Learned counsel for respondent non.2 has strongly resisted the application on the ground that delay has not been explained satisfactorily.

6. Learned APP submits that appropriate order may be passed.

7. It appears that the applicant was under trial and though he was convicted by the trial court by judgment and order of conviction dated 25/01/2019, however, the applicant could not prefer an appeal on his own due to his financial poor condition. The applicant has thereafter sent the letter for legal aid through jail authority. Thus, in view of the same, we are inclined to condone the delay. It is necessary to give one opportunity to the applicant to hear his appeal on merits. In view of the same and for the reasons stated in the application, criminal application is allowed in terms of prayer clause "B" and disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-