

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

940 CRIMINAL APPLICATION NO.1917 OF 2021
IN APEALST/5724/2021 WITH APPLN/1918/2021 IN APEALST/
5724/2021

BRIJMOHAN GOKULPRASAD JAISWAL
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. Rupesh Jaiswal, Advocate for the applicant.
Mr. R.D. Sanap, A.P.P. for respondent No. 1 – State.
Ms. Madhuri Jain, Advocate appointed for respondent No. 2.

...

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

DATE : 11-01-2022.

ORDER :

1. Heard both sides.
2. There is delay of 771 days caused in filing Criminal Appeal against the judgment and order of conviction passed by Additional Sessions Judge, Nanded on 15.05.2019 in Special Case (Atrocity) No. 23/2018.
3. Learned Counsel for the applicant submits that the delay of 771 days is caused in filing criminal appeal. The applicant was under trial. The applicant is 68 years of age and he has allegedly committed rape on maid servant in the house. Thus, considering the nature of the allegations and subsequent conviction, no one in the family has taken care to file appeal against the

judgment and order of conviction. Learned Counsel submits that the applicant was also not knowing about his rights to prefer an appeal against the judgment and order of conviction.

4. Learned Counsel for respondent No.2 has strongly resisted the application on the ground that there is an inordinate delay in filing the criminal appeal, which is not explained reasonably.

5. We have heard learned A.P.P.

6. The applicant / original accused remained as under trial prisoner and by an order dated 15.05.2019 the Additional Sessions Judge, Nanded has convicted him for the offence punishable under Section 6 of POCSO Act and sentenced him to suffer imprisonment for life and to pay fine of Rs. 25,000/- in default of payment of fine to suffer rigorous imprisonment for six months and also found him guilty for the offence punishable under Section 376 (2) (i) of the Indian Penal Code, however, no specific sentence has been passed. The applicant is also further convicted for the offences punishable under Section 506 of I.P.C. and under Section 3 (2) (v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. The applicant is at present 68 years of age. It is submitted that he was not knowing about his rights to prefer criminal appeal against the judgment and order of conviction. Furthermore, no one from his family has taken care to obtain legal advice for filing the criminal appeal. Thus, considering the entire aspect of the case, we are

inclined to condone the delay.

7. In view of the above and for the reasons stated in the application, Criminal Application No. 1917 of 2021 is allowed in terms of prayer clause [B] and is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)

VD_Dhirde