

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

**27 CRIMINAL APPLICATION NO.3578 OF 2018
WITH APPLN/3243/2019 IN APPLN/3578/2018
WITH APPLN/6701/2015**

VIJAYKUMAR BANSILAL BOTHRA

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Miss. Riya Jariwala, Advocate h/f Mr. R.A. Karwa, Advocate for applicant

Mr. M.M. Nerlikar, APP for respondent No.1

...

**CORAM : SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.**

DATE : 05th SEPTEMBER, 2022

PER COURT :

1 Present application has been filed for condonation of delay of 1149 days in filing appeal. The applicant is the informant – victim and on the basis of the First Information Report lodged by him crime was registered for the offence punishable under Section 452, 394, 397 read with Section 34 of the Indian Penal Code and under Section 3 punishable under Section 25 of the Indian Arms Act as against original accused Nos.1 to 4 and as against accused Nos.5 to 7 it was under Section 411 of the Indian Penal Code. After

the investigation the charge sheet was filed and the case was committed to the Court of Sessions. Sessions Case No.154/2011 was tried before learned Additional Sessions Judge, Jalgaon and all the accused persons came to be acquitted by Judgment and order dated 13.08.2015.

2 The prosecution has come in appeal and after condonation of delay the said application is pending for consideration. It is then stated that separate application was filed by the present applicant in the said application filed by the prosecution for assist to PP. But independently, now, the informant who is victim wants to file the appeal.

3 Heard learned Advocate Miss. Riya Jariwala holding for learned Advocate Mr. R.A. Karwa for the applicant and learned APP Mr. M.M. Nerlikar for respondent No.1.

4 For the reasons stated for condonation of delay in the application; the delay is condoned.

5 Registry to verify and register the appeal at this stage itself. However, it is stated that the applicant has wrongly quoted the section as '378(4) of the Code of Criminal Procedure', for the informant – victim only. For the victim who has been covered under definition of Section 2(wa) of the

Code of Criminal Procedure, there is separate provision, that is, under the proviso to Section 372 of the Code of Criminal Procedure and, therefore, the appeal be registered under the said provisions.

6 The matter be placed after the registration of the appeal along with Criminal Application No.6701 of 2015 on **04.10.2022**.

7 Learned APP to supply the copies of depositions before the said date, by giving a copy of the same to the other side, in advance.

(Rajesh S. Patil, J.)

(Smt. Vibha Kankanwadi, J.)

agd