

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

CRIMINAL WRIT PETITION NO.1013 OF 2022

SANDEEP GOPINATH MALODE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Petitioners : Mr. S. S. Jadhav
APP for Respondents: Mrs. G. L. Deshpande

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CORAM : R.M. JOSHI, J

DATE : AUGUST 03, 2023

PER COURT :

1. This Petition takes exception to the order dated 22nd June, 2022 passed by learned Additional Sessions Judge-7, Aurangabad in Criminal M.A. No. 351/2019, which came to be filed for condonation of delay of 13 months and 20 days in filing Criminal Revision Application for challenging order of rejecting of application for discharge.

2. Learned Counsel for the Petitioner states that no malafides can be attributed to the Petitioner for not approaching Sessions Court in time. According to him, no prejudice will be caused to the State if an opportunity is given to the Petitioner to substantiate his case before trial Revisional Court.

3. Learned APP opposed the application by contending that the Petitioner is Government Servant and that in order to delay the proceedings before trial Court, the Revision Application was not filed in time.

4. It is settled law that as far as possible the *lis* between the parties is required to be decided on merits instead of its disposal on technicalities. Learned Additional Sessions Judge has no doubt taken into consideration the amount of delay caused in filing application, however, there is no reason recorded to the effect that as to what prejudice is likely to cause to the State if delay is condoned.

5. Considering the right of the accused to test the order passed by trial Court against him, the delay in filing of the Revision Application is condoned subject to payment of cost of Rs. 10,000/- in account of Government Pleader Officer, High Court of Bombay, Bench at Aurangabad. (A/c No. 620023338300, Establishment officer, IFSC – SBIN0020997).

6. Criminal M. A. No. 351/2019 is allowed. Criminal Revision Application be registered. Learned

Additional Sessions Judge to dispose of the Criminal Revision Application within a period of six months from today.

(R.M. JOSHI, J.)

Malani