

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

**908 CRIMINAL APPLICATION NO.1951 OF 2020
WITH APPEAL/44/2020 WITH ALS/112/2020**

**THE STATE OF MAHARASHTRA
VERSUS
DYANDEV TRIMBAK UKIRDE**

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**APP for Applicant : Mr.S.D.Ghayal
Advocate for Respondent : Mr.D.B.Gaikwad and Mr.R.A.Jaiswal**

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**CORAM : SMT. VIBHA KANKANWADI &
ABHAY S. WAGHWASE, JJ.**

DATE : 8 SEPTEMBER, 2023

PER COURT :-

1. The respondent, who is the original accused in this case is served. On the last occasion i.e. on 24-08-2023, Mr.Omprakash Waghmare, learned Advocate h/f. Mr.R.A.Jaiwal, learned Advocate, submitted that Mr.Jaiwal has no instructions in the matter now and record shows that Mr.D.B.Gaikwad filed Vakalatnama but he had not taken consent of the earlier Advocate. Under the said circumstance, we have issued notice to respondent and he has been served.

2. The present application seeks condonation of delay of 10 days in filing criminal appeal by the State under Section 377(1) of the Code of Criminal Procedure.

3. In view of the said position, taking into consideration the duration of the delay also, we condoned the delay. Criminal Application No.1951 of 2020 is allowed and disposed of. The registry is directed to register the appeal.

4. After the dictation was over, Mr.D.B.Gaikwad, learned Advocate appeared and submitted that infact the matter would be worked out by Mr.R.A.Jaiswal.

We would leave it to them as to who should appear in the matter but that should be procedurally done.

5. As aforesaid, the delay stands condoned. Further their appears to be a separate application for leave to appeal by the State challenging acquittal of the accused from offence under Sections 363, 366(A), 376(2)(j) and 307 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act (POCSO). Issue notice in respect of said application to the respondent. Mr.Gaikwad, learned Advocate waives service of notice for the respondent.

6. We would hear the matter as regards Application for Leave to Appeal by State No.112 of 2020 and appeal under Section 377(1) of the Code of Criminal Procedure on the next date i.e. 09-10-2023.

(ABHAY S. WAGHWASE)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

SPT