

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 CRIMINAL APPLICATION NO.2821 OF 2023
IN APPEALST/7786/2023

SAHEBRAO SUDAM DIVIKAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Ms. Vanita H. Sangole, Advocate h/f Mrs. S.T. Kazi, Advocate for applicant

Mr. A.M. Phule, APP for respondent No.1

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

DATE : 13th SEPTEMBER, 2023

ORDER :

1 Present application has been filed for condonation of delay of 4448 days in filing criminal appeal. The appellant is the original accused No.1 in Sessions Case No.13/2009. He was held guilty of committing offence punishable under Section 302 of the Indian Penal Code and has been sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/- (Rupees Five Thousand only), in default to suffer simple imprisonment for three months by learned District Judge-2 and Additional Sessions Judge,

Shrirampur, Dist. Ahmednagar on 25.03.2011. The fine amount was directed to be given to PW 1 i.e. present respondent No.2. She has been served in the matter, however, she has failed to appear. In fact, whether to condone the delay in filing the criminal appeal is to be decided by the Court on its own merits and, therefore, we are not appointing Amicus Curiae to represent respondent No.2 for the reasons stated in paragraph No.2 i.e. the reasons for delay. It appears that the appellant is in jail since 30.12.2008. Unfortunately, it appears that he could not get the proper legal advice in the prison. Since he is in jail and the appeal is a right available to him to challenge his conviction, the delay stand condoned. Application stands allowed and disposed of. Registry to verify and register the appeal.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)

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