



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1699 OF 2023
WITH
INTERIM APPLICATION NO. 1698 OF 2023
IN
APPEAL NO. 531 OF 2022**

Mubeen Kadar Shaikh

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Ms. Tahera Qureshi, Advocate for Applicant.
 - Mr. A.M. Chimalkar, SPP a/w. Mr. Siddharth Jagushte, APP for the Respondent – State.
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**CORAM : SARANG V. KOTWAL &
MILIND N. JADHAV, JJ.**

DATE : SEPTEMBER 21, 2023.

P.C. (PER : MILIND N. JADHAV, J.):

1. Heard Ms. Qureshi, learned Advocate for the Applicant and Mr. Chimalkar, learned SPP for the Respondent – State.

2. At the outset, Ms. Qureshi would submit that Criminal Interim Application No.1699 of 2023 seeks condonation of delay of 312 days for filing Criminal Interim Application No.1698 of 2023 seeking restoration of Criminal Appeal (St.) No.4762 of 2022. Record indicates that Criminal Appeal (St.) No.4762 of 2022 was numbered finally as Criminal Appeal No.531 of 2022.

3. We have perused Interim Application No.1699 of 2023. For the reasons stated in paragraph Nos.7 to 12, Interim Application No.1699 of 2023 stands allowed in terms of prayer clauses 'a' and 'c' thereof. Delay stands condoned. Criminal Interim Application No.1698 of 2023 is taken up for hearing forthwith.

4. We clarify that there is no ambiguity in passing directions contained in paragraph No.12 of the order dated 04.05.2022 (Coram: Smt. Sadhana S. Jadhav & Milind N. Jadhav, JJ.) while disposing of Criminal Appeal (St.) No.4762 of 2022 alongwith Criminal Interim Application Nos.987 of 2022 and 989 of 2022. The first Application was filed for condonation of delay for filing the bail Application. Second Application was for arguing in person. All proceedings were filed through jail and received by post in this Court. In view of the directions contained in paragraph No.9 of the said order enabling the Appellant and giving him liberty to file a fresh Application for discharge / quashing of charges under Maharashtra Control of Organised Crime Act, 1999 Act (MCOC Act) before the Trial Court, had the Applicant succeeded in his discharge Application, the aforementioned proceedings would have been rendered redundant. Hence the directions were accordingly passed in paragraph No.12.

5. Considering that Appellant has been unsuccessful in prosecuting in his discharge Application before the Trial Court and

Appeal thereto in this Court, it is clarified that the Appellant's right to seek bail undoubtedly stands revived and in that view of the matter, Criminal Appeal (St.) No.4762 of 2022 alongwith Criminal Interim Application Nos.987 of 2022 and 989 of 2022 stands revived to the record and file of the Court for consideration.

6. We clarify that the order dated 04.05.2022, while disposing of the aforesaid proceedings did not opine anything on merits of the said proceedings.

7. Considering the above, Criminal Appeal (St.) No.4762 of 2022 alongwith Criminal Interim Application Nos.987 of 2022 and 989 of 2022 shall be placed by the Registry before the Regular Court as per extant assignment.

8. With the above directions, Interim Application No.1698 of 2023 stands disposed. Accordingly Interim Application No.1699 of 2023 seeking condonation of delay also stands disposed.

[MILIND N. JADHAV, J.]

[SARANG V. KOTWAL, J.]

Ajay