

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 39 OF 2023 IN
CRIMINAL APPEAL NO. OF 2023

Kaushal Maheshkumar Gupta

..vs..

State of Maharashtra and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Y.J. Sheikh, Advocate for the applicant/appellant.
Mrs. M.H. Deshmukh, A.P.P. for the respondent/State.
Shri Rahul R. Tiwari, Advocate for respondent no.2.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.
DATED : 20/01/2023.

Heard.

2. This is an application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 220 days caused in filing the appeal under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. It has been canvassed that initially, the applicant/appellant was granted pre-arrest bail however the same was cancelled by the Sessions Court vide order dated 14.10.2021, which is the subject matter of appeal. Instead of filing of this appeal, earlier the applicant (accused) has reapplied to the same Forum for pre-arrest bail, however it was rejected.

3. It is the applicant/appellant's contention that since mistakenly he has applied before the same Forum, that is why the delay occurred, which he seeks to condone.

4. Learned Counsel Shri R.R. Tiwari for respondent no. 2 objected for condoning the delay by stating that the delay runs into several days.

5. It is a matter of record that after cancellation of pre-arrest bail, the applicant/appellant chosen wrong Forum. Besides that the matter pertains to personal liberty and therefore, without going to technicalities, we deem it appropriate to condone the delay with a view to decide the cause on merits.

6. In view of that the delay caused in filing the appeal stands condoned. Application is allowed and disposed of.

7. The Appeal be registered and numbered accordingly.

CRIMINAL APPEAL NO. _____

Heard.

2. Issue notice to the respondents, returnable on 03.02.2023.

3. Learned A.P.P. Mrs. Deshmukh appearing for the respondent/State and learned Counsel Shri R.R. Tiwari appearing for respondent no. 2, waive notice.

4. Learned Counsel for the respondent no. 2 seeks time to file reply. Reply be filed till the returnable date.