

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPR) NO. 45 OF 2022
IN
CRIMINAL REVISION APPLICATION (REVN) (St.) NO. 803 OF 2022

The State of Maharashtra

.VS.

Maroti Dnyandeo Jagtap

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Ms Mayuri Deshmukh, APP for the State

Mr Gurpreet Singh Chandok, Advocate for the non-applicant

CORAM : G.A. SANAP, J.

DATE : JULY 21, 2023.

Heard.

2. This is an application for condonation of 164 days delay caused in filing the revision application against the order dated 04.11.2019 passed below Exh. 12 in Special (ACB) Case No. 08 of 2014, whereby the learned Special Judge, Achalpur discharged the non-applicant/accused No.2 from the crime bearing No. 3109 of 2013. The reasons have been stated in the application for condonation of delay. It is stated that at the relevant time the COVID-19 was at its peak. The incharge prosecutor could not take a decision to file the revision. The incharge

prosecutor, therefore, sent letter to his Superior and proposed the filing of proceeding to challenge the said order. The proposal was forwarded to the Law and Judiciary Department, Government of Maharashtra on 06.12.2021. On 21.12.2021, the approval of the Law and Judiciary Department, Government of Maharashtra was received. After receipt of the approval, this application has been filed. It is stated that due to procedural administrative steps, required to be taken the delay has been caused.

3. The non-applicant/accused No.2 has filed reply and opposed the application. It is contended that no case has been made out for condonation of delay. There was negligence on the part of the concerned officials in filing the revision application within time. It is further stated that prosecution initiated against him was not maintainable. The learned Special Judge, Achalpur has recorded the reasons for discharge of the non-applicant from the case. It is submitted that in the absence of sufficient reasons the delay cannot be condoned.

4. I have heard the learned APP Mrs Mayuri Deshmukh for the State and learned Advocate Mr Gurpreet Singh Chandok for the non-applicant. Perused the record

and proceedings.

5. It is to be noted that the non-applicant/accused No.2 before his discharge was facing the trial before the learned Special Judge, Achalpur for the offence punishable under Sections 7, 12, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1949. Learned Judge for the reasons recorded in the order was pleased to allow the application for discharge and ultimately, discharged the non-applicant/accused No.2. It is the case of the State that the reasons recorded by the learned Judge are contrary to the available record. It is therefore submitted that in order to decide the issue on merits, it is necessary to condone the delay.

6. It needs to be stated that while condoning the delay the Court is required to adopt a liberal approach. It is not out of place to mention that the decision to file or not to file the revision against the order passed by the Court could not be taken by the incharge prosecutor. In such a case the prosecutor is required to move his superior for filing appeal or revision against the order. The superior in turn is required to move the Law and Judiciary Department, Government of Maharashtra. Subject to the approval of the

Law and Judiciary Department, Government of Maharashtra the proceeding is filed. In this case, the delay has occurred on account of administrative procedural action. It is further apparent that when the order was passed there was COVID - 19 pandemic.

7. In the facts and circumstances, in my view, the reasons stated in the application are sufficient to explain the delay. It is further pertinent to mention that while deciding such application unnecessary emphasis cannot be laid on the technicalities. On going through the record, I am satisfied that the reasons are sufficient to condone the delay. Accordingly, the application is **allowed**.

8. The delay of 164 days caused in filling the revision application is condoned.

9. The application stands disposed of, accordingly.

10. The main revision application be registered.

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11. After registration of revision, issue notice to the non-applicant, returnable within **two weeks**.

12. Learned Advocate Mr Gurpreetsingh Chandok waives service of notice on behalf of non-applicant.

(G. A. SANAP, J.)

Namrata