

**CRM No. 29750 of 2021 in/and
CRM-A-214 of 2021**

2023:PHHC:119227 [1]

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM No. 29750 of 2021 in/and
CRM-A-214 of 2021
Date of decision:12th September, 2023**

State of Haryana

Applicant

Versus

Rajinder @ Bajju

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajiv Sidhu, DAG, Haryana.

AVNEESH JHINGAN, J (Oral):

1. The application under Section 378(3) Cr.P.C. filed against the judgment of acquittal dated 18.2.2019 in FIR No. 147 dated 20.8.2016, under Section 21 of the Narcotic Drugs & Psychotropic Substances Act, 1985 is accompanied by an application for condoning delay of 316 days in filing thereof.
2. As per pleadings in the application for condonation of delay, on 14.3.2019 District Attorney, Kaithal opined that it is a fit case for filing appeal against the judgment of acquittal. Thereafter, the file was forwarded to Advocate General, Haryana and Superintendent of Police on 26.3.2019. On 5.6.2020 the office of Advocate General, Haryana asked to supply the affidavit with the application for condonation of delay.
3. Learned counsel for the State submits that there was procedural delay in filing the application/appeal.
4. From the perusal of the pleadings, it is forthcoming that the decision to file appeal was taken on 26.3.2019 but the appeal was not filed till 29.6.2020. There is no explanation put forth explaining the period consumed from 27.3.2019 to 5.6.2020.

5. *The Supreme Court in Office of the Chief Post Master General and others Versus Living Media India Ltd. And another, 2012 AIR (Supreme Court), 1506* held:

“13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

6. The Supreme Court in *The State of Bihar and others Versus Deo Kumar Singh and others Special Leave Petition (Civil) Diary No.13348 of 2019, decided on 9.5.2019* considering its decision in *Chief Post Master General case (supra)*, held that condonation of delay is no more admissible on the pretext of lethargic working of Government.

7. In case of *Amalendu Kumar Bera and others Versus The State of West Bengal 2013 (2) RCR (Civil) 534*, the Supreme Court held that the delay in filing the appeal or revision cannot be mechanically condoned, in the absence of 'sufficient cause' for delay.

8. It would not be out of place to mention that with the passage of time, the right accruing to the acquitted accused/non-applicant gets crystalized, the delay affects his rights.

9. The decision to file the appeal was taken on 26.3.2019. The file was forwarded to Advocate General, Haryana as well as Superintendent of Police, Kaithal. It is pleaded that on 5.6.2020, the office of Advocate General, Haryana had asked Superintendent of Police, Kaithal to supply affidavit with application for condonation of delay and thereafter the appeal was filed on 20.6.2020. There is no explanation put forth from 27.3.2019 till 5.6.2020 i.e a period of more than one year taken to file appeal after taking a decision that it is fit to challenge the judgment of acquittal. In the absence of any explanation worth acceptance, the application for condonation of delay is dismissed.

10. Consequently, the application under Section 378(3) Cr.P.C. is dismissed as time-barred.

**[AVNEESH JHINGAN]
JUDGE**

12th September, 2023
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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No