

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-32244 of 2023 in/and
CRR-1758 of 2023 (O&M)
Date of Decision:11.08.2023

Mohinder Kaur

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Hardeep Singh, Advocate,
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

CRM-32244 of 2023

1. The present application has been filed under Section 5 of the Limitation Act for condonation of delay of 425 days in filing of the application for restoration.

2. Learned counsel for the applicant-petitioner has submitted that although in the prayer clause, it has been so stated that the application for restoration, but in fact the application is for condonation of delay in view of the fact that the application itself has been filed under Section 5 of the Limitation Act for condonation of delay. He submitted that although there is a large delay of 425 days but it is a case where the applicant-petitioner was not informed by the counsel with regard to the pendency of the appeal and therefore the applicant-petitioner was absent before the learned appellate Court

and the judgment was passed in the absence of the applicant-petitioner. He submitted that in view of the above even the present revision petition has been filed with a delay because the applicant-petitioner was not aware that her appeal was dismissed and it was only upon the legal advice to the counsel that the present revision has been filed.

3. I have heard the learned counsel for the applicant-petitioner.

4. The applicant-petitioner was convicted by the learned trial Court on 26.08.2019 and thereafter she filed an appeal before the learned lower appellate Court and she absented herself and did not appear and the appeal was dismissed and the conviction was affirmed in the absence of the applicant-petitioner vide order dated 07.01.2020 which is about 3½ years ago. Even in paragraph 21 of the judgment passed by the learned lower appellate Court, the trial Court was directed to re-issue the warrant of arrest against the applicant-petitioner and now as per learned counsel for the applicant-petitioner, she has been taken into custody. The application is for condonation of delay of 425 days. A perusal of the contents of the application would show that the only reason which has been given that the applicant-petitioner was not aware of the pendency of the appeal before the learned appellate Court. This Court is of the view that for seeking condonation of delay under Section 5 of the Limitation Act a sufficient cause has to be shown. Although the Courts condone the delay normally by taking a liberal approach but even for taking a liberal approach sufficient reasons should be given, but in the present case the applicant-petitioner did not present herself before the learned appellate Court as well and in January 2020 in her absence the conviction order was upheld and the trial Court was directed to re-issue warrant against her. The present application is

also filed after a period of 425 days for which this Court is of the view that it does not constitute any sufficient cause under Section 5 of the Limitation Act. Consequently, finding no merit in the application for condonation of delay, the application as well as revision petition are dismissed.

(JASGURPREET SINGH PURI)
JUDGE

August 11, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No