



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 **CRIMINAL APPLICATION NO. 178 OF 2020**

THE STATE OF MAHARASHTRA
VERSUS
SAHEBRAO S/O. BAJIRAO SONTAKKE

...
APP for Applicant – State : Mr. K. K. Naik

Advocate for Respondent : Mr.K. R. Yadav h/f. Mr. Sudarshan J. Salunke

...

CORAM : ABHAY S. WAGHWASE, J.

DATED : 21st JUNE, 2024

PER COURT :

1. State has preferred instant application for condonation of delay of 53 days caused in filing the application for leave to appeal by State.

2. Learned APP pointed out that, Special ACB Case No. 03 of 2013 was decided on 02.08.2019. That, trial culminated into acquittal, and therefore, State is keen in preferring the appeal for questioning the legality of the judgment and order. However, learned APP invited attention of this court to paragraph no.2 of the application and submitted that, the then APP because of his personal difficulty could not take effective steps to get the appeal filed and numbered. That, even copy of judgment was not received

by the office in time. Learned APP submitted that, the said delay is unintentional and there is a good case in appeal, and therefore, in the interest of fair opportunity, delay so caused is sought to be condoned.

3. Learned Advocate for respondent strongly objected on the ground that there are laches on the part of prosecution in collecting the copy of judgment. According to him, delay has not been properly explained and hence he prays to dismiss the application for condonation.

4. After submissions of both sides and on going through the papers, it seems that, ACB Case No.03 of 2013 was decided by the learned trial court. The said trial ended up in acquittal of accused by judgment and order dated 02.08.2019. Against it, the State wanted to go in appeal. However, appeal has not been preferred in time.

5. Considering the above and in view of reasons for not filing appeal within limitation are assigned in paragraph no.2 of the application and in the interest of justice and fair opportunity, application deserves to be allowed.

6. The application stands allowed and disposed of. Delay stands condoned.
7. Registry to verify and to take further steps.
8. Issue notice to the respondent in application for leave to appeal by State.
9. Learned Advocate Mr. K. R. Yadav h/f. Mr. Sudarshan J. Salunke waives notice on behalf of respondent.
10. Stand over to 19.07.2024.

(ABHAY S. WAGHWASE, J.)