



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.729 OF 2021 IN
CRIMINAL APPEAL (ST.) NO.2053 OF 2021**

The State of Maharashtra ... **APPLICANT**

VERSUS

Santosh Mangalprasad Morya ... **RESPONDENT**

.....
Mrs. S.N. Deshmukh, A.P.P. for applicant – State
Mr. S.J. Salunke, Advocate for respondent
.....

**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

DATE : 29th APRIL, 2024

ORDER :

Heard. This is an application for condonation of 1742 days' delay in preferring the Criminal Appeal by the State for enhancement of life sentence to death sentence.

2. It is submitted by learned A.P.P. that, the said delay is technical and not intentional. She submits that, for submitting the proposal to the concerned Department of the Government i.e. Law & Judiciary Department, the certified copies of the documents are required and since the concerned

Police Station did not deposit the fees towards the certified copies, there was delay in securing the certified copies of the relevant papers. She submits that, in the meantime, Covid-19 pandemic erupted, which had paralysed the entire machinery. She submits that, the reasons are given in the application which are satisfactory and the delay may be condoned. She brings to our notice copy of letter dated 3/3/2021, written by the concerned Public Prosecutor to the Law & Judiciary Department, giving the reasons for delay. The relevant portion is reproduced below :

- (1) Concerned police station did not approach the APP in time and did not complete the formalities required for taking the certified copies of the orders in time and hence, the APP did not get the copies in time.
- (2) After the concerned police paid the fees for copies of the judgment and order, statements of witnesses and statement of accused and original complaint, the APP got the copies and hence, due to delay in getting the copies the APP could not prepare the proposal of Appeal in time.
- (3) After getting all the required copies immediately three

Xerox copies sets along with the original set were sent to Hon'ble Law and Judiciary Department, Aurangabad, because of the above mentioned grounds the proposal for Appeal not sent in time.

- (4) in year 2020 spread of the Covid-19 therefore, that time could not work in the Court.

3. We have gone through the contentions raised in the application for condonation of delay. The blame is put on the concerned Police Station for not providing fees for applying certified copies. There is nothing to show that the concerned A.P.P. who conducted the trial has immediately taken steps so that the copies of relevant documents could be applied for. Even if we subtract the period of Covid 19 pandemic, still the delay is exorbitant. The judgment of the Trial Court is dated 4/4/2016. The application for condonation of delay is dated 12/3/2021. The reasons given in the application cannot be said to have been satisfactory. We are conscious that the day-to-day delay is not required to be explained. However, the reasons for delay should be satisfactorily explained, which is not done in the case in hand. It is needless to state that, while appreciating the evidence on record, in the appeal against

conviction, this Court has every power to take necessary steps for enhancement of sentence, by issuing notices, if it is found that the sentence imposed is inadequate.

4. In this view of the matter, we are not inclined to condone the said exorbitant delay and hence, proceed to pass the following order :

ORDER

This application for condonation of delay is rejected.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

fmp/-