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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3552 OF 2023
IN
APPLICATION FOR LEAVE TO APPEAL BY PRIVATE PARTY
STAMP NO.9778 OF 2023

Balaji Manikrao Kadam

APPLICANT

VERSUS

Pandurang Vitthal Desai

RESPONDENT

.....
Mr. Ashutosh S. Kulkarni, Advocate for the applicant
Mr. B. N. Gadegaonkar, Advocate for respondent sole
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 7th AUGUST, 2024

ORDER :

1. By this application, the applicant seeks condonation of 425 days' delay in filing application for leave to appeal against acquittal of respondent under section 138 of the Negotiable Instruments Act.
2. Applicant filed SCC No. 457 of 2015 against the respondent under section 138 of the Negotiable Instruments Act for dishonour of cheque of Rs.5 lakh. Trial Court, after recording evidence, acquitted the respondent, by judgment dated 17th May, 2022.
3. Applicant, thereafter preferred appeal against the acquittal

along with delay condonation application, before the Sessions Court on 9th August, 2023. The same being not maintainable, was returned back by the Registry of the Sessions Court. Thereafter, the applicant approached this Court, by filing application for condonation of delay in filing application for leave to appeal against acquittal.

4. Reason assigned by the applicant is that applicant was suffering from kidney stone and hernia and continuously advised to take bed rest, during the period from August, 2022 to March, 2023. It is the contention of the applicant that he has undergone hernia operation in the year 2019 and thereafter he started having trouble in the month of August, 2022 i.e. after three months of the passing of the judgment of acquittal.

5. The reason assigned by the applicant is not plausible and sufficient to explain the inordinate delay of 425 days in filing application for leave to appeal against acquittal. No case is made out by the applicant for condonation of delay. The application is, therefore, rejected.

**[NITIN B. SURYAWANSHI]
JUDGE**

