



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

**911 CRIMINAL APPLICATION NO. 4268 OF 2024
IN APEALST/11523/2024**

SURYAPRAKASH TARACHAND BANSWAL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Sohail Subhedar h/for Mr. Nilesh S Ghanekar, Advocate for
Applicant

Mr. N. D. Batule, APP for Respondent State

Mr. Shrikrishna B. Solanke, Advocate for Respondent Nos. 2 to 10

CORAM : Y. G. KHOBRAGADE, J.

Dated : 12th November, 2024

PER COURT :-

1. Mr. Solanke, the learned counsel made a statement that he has instructions to appear on behalf of non applicant Nos. 2 to 10 and undertakes to file vakalatnama within a period of seven days from today.

2. Heard both sides at length.

3. By the present application, the applicant/original complainant prayed for condonation of delay of 56 days caused while lodging Appeal against the order dated 01.07.2024 passed by the learned Special Judge, SC & SC (POA) Act, Aurangabad by which the prayer for issuance of process under section 156(3)

Cr.P.C. is rejected.

4. The learned counsel for the applicant canvassed that daughter of the applicant was severely ill and therefore the applicant was busy in hospitalization of his daughter.

5. The Non applicants have strongly resisted the application on the ground that no bonafide and substantial explanation has been given, so also, no medical certificate has been produced to substantiate the ground, hence, prayed for rejection of the application.

6. It is trite settled principle of law that the litigant should not be deprived from receiving substantial justice on technical ground of delay. In the case in hand, the applicant/original complainant has prayed for enquiry under section 156(3) Cr.P.C. but his prayer was turned down. Since the daughter of the applicant was hospitalized due to serious ailment, the applicant could not approach before this Court and delay of 56 days is caused, which appears to be bonafide and substantial. Therefore, I am inclined to allow the present application and proceed to pass the following order:

ORDER

- a) Criminal Application No. 4268 of 2024 is allowed.
- b) Delay of 56 days is hereby condoned.
- c) Office to register the Appeal and place before the Court on
25.11.2024.

(Y. G. KHOBRADE, J.)

JPChavan