

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 1409 OF 2022**

Tanaji Sitaram Sulke

... Applicant

Versus

State of Maharashtra and Anr.

... Respondents

.....

Mr. Daulat G. Khamkar, Advocate for the Applicant.

Smt. Poonam P. Bhosale, APP for Respondent No.1-State.

Ms. Naina Boraste i/b. Mr. Girish Agarwal, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.**DATED : 19th AUGUST, 2024.****P.C. :**

1. This application take exception to the order of rejection of condonation of delay caused in preferring revision under Section 397 of Criminal Procedure Code (for short "Cr.P.C.") against the order dated 22.02.2022 passed under Section 125 of Cr. P.C.

2. Learned counsel for the applicant submits that the applicant was aged about 70 years when the application was filed for condonation of delay. It his submission that reason of his own ill health as well as he having no assistance has been cited for condonation thereof. It is submitted that condonation of delay of 61 days ought not to have been rejected by the learned Sessions Judge.

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3. Learned counsel for the original complainant as well as learned

APP opposing the application by contending that no specific reasons are mentioned for the purpose of condonation of delay and as such order impugned cannot be interfered.

4. This Court by order dated 03.02.2023 has directed the applicant to deposit the amount for sum of Rs. 75,000/- before the Sessions Court and the said amount is allowed to be withdrawn by respondent / original complainant. It is thus clear that the interest of contesting respondent has been duly taken care by order of this Court. As far as the delay is concerned, though it is mentioned in the application that delay of about 15 to 16 days but in fact the delay of 61 days the delay is not inordinate nor deliberate. Owing to the age of the applicant, the learned Additional Sessions Judge ought to have accepted the reason of ill health mentioned for the condonation of delay, so also lack of assistance to him.

5. Having regard to these facts, application is allowed. Delay stands condoned. Revision be registered. Considering the fact that the contesting respondent is aged more than 90 years, the revision application be decided by the Sessions Judge within a period of three months from today. It shall be responsibility of applicant herein to bring to the notice this order to Revisional Court.

(R. M. JOSHI, J.)