

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 592 OF 2024
IN
CRIMINAL WRIT PETITION NO. 1202 OF 2018**

Ashiq A. Merchant

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr.Iqbal Shaikh for Applicant.

Mr. J.P. Yagnik, APP for Respondent No.1-State.

Mr.J.S. Kini a.w Mr. Aum Kini i/b Ms. Sapna Krishnappa for Respondent No.2.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.****DATE : 12th February 2024****P.C. :**

1) This is an application for restoration of Criminal Writ Petition No.1202 of 2018, which was dismissed for want of prosecution by Order dated 30th January 2023.

2) There is a delay of 217 days in preferring present Application.

3) Learned Advocate appearing for the Applicant submitted that, earlier Advocate on record for the Applicant-Petitioner had engaged Advocate Mr. Nitin Dalvi, as a counsel, who had accepted the responsibility of looking after his Petition. However, Mr. Dalvi passed away during the lockdown of Covid-10 Pandemic and therefore the Petition remained untended. That, the delay is caused due to such reasons.

4) It be noted here that, we are unable to accept such an

explanation given by the Applicant. It is settled norm that, counsel cannot be expected to look after the matter of Advocate on record and it is the duty of the Advocate on record to follow up his petition/appeal/matter diligently.

5) At this stage, learned Advocate for the Applicant submitted that, Applicant will pay a cost of Rs.15,000/- to Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the Order on the official website of Bombay High Court, for condonation of said delay. The said statement is accepted.

5.1) Details of the bank account for payment of cost are as under :-

Account Name :- Advocates Association of Western India Generation Next.

Account Number :- 000110110007807.

Bank Name :- Bank of India.

Branch Name :- Mumbai Main.

IFSC Code :- BKID0000001.

5.2) Applicant to deposit the said cost of Rs.15,000/- within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

6) Subject to payment of cost as noted above, delay is condoned and Application is allowed in terms of prayer clauses (b) and (c).

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)