



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1374 OF 2023

KUSHAL VASANTLAL DOSHI

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Ms. Aishwarya Kantawala a/w Ms.Diya Jayan, for the Applicant.

Ms. Sangeeta D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 28, 2024

P.C. :

1. Heard learned counsel for the applicant. The applicant is challenging the order dated 05/08/2023 passed by the Revisional Court rejecting the application for condonation of delay of 139 days in filing the criminal revision application against the order dated 06/01/2022 passed by the Metropolitan Magistrate, 12th Court, Bandra, Mumbai rejecting the applicant's application for discharge under section 239 of Code of Criminal Procedure.

2. Learned APP opposed the application. It is submitted that in the application for condonation of delay, the applicant has failed to show any sufficient cause for condonation of delay for a period from 01/03/2022 to

23/08/2022. Inviting my attention to the application made for condonation of delay before the trial Court, learned APP submitted that the reasons are not at all satisfactory.

3. I have perused the application made before the Revisional Court for condonation of delay. In paragraph 5 in ground 'A', the applicant has stated thus:

“That, the applicant’s certified copies were made available on 1.4.2022 and due to health issues and COVID 19 pandemic there were several hurdles in filing of the Criminal Revision Application, hence the applicant is seeking condonation of delay.”

4. In my opinion, considering that the applicant was challenging an order rejecting application for discharge having regard to the delay of 139 days, the Revisional Court should have adopted a liberal, pragmatic and justice oriented approach while considering the application for condonation of delay. According to me, though the application should have been more elaborate on the sufficient cause, however, in the interest of justice, having regard to the Covid-19 pandemic and health issues pleaded, for the reasons mentioned in the application, the application for condonation of delay can be allowed.

5. The present criminal application is accordingly

allowed.

6. The impugned order is set aside.

7. The revisional Court to decide the revision application on merits. I have not expressed any opinion on the merits of the contentions.

8. The criminal application is disposed of.

(M. S. KARNIK, J.)