

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO.1081/2022
IN
CRIMINAL APPEAL ST. NO.8639/2022

M/s Shreeji Infotech, thr. Its Prop. Mrs. Preeti Chandak
 Vs.

M/s Rohit Communication, thr. Its Proprietor Rohit s/o Virjlal Gaglani

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri N.R. Tekade, Advocate for appellant

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/07/2024

By this application, the appellant is seeking condonation of delay which is caused in preferring the appeal against acquittal.

2. Learned Counsel for the applicant submitted that the applicant has filed complaint under Section 138 of Negotiable Instrument Act and it was fixed for furnishing the surety. Therefore, the presence of the complainant was not required but the learned trial Court, on technical ground, dismissed the complaint and acquitted the accused by passing the order under Section 256, which is under challenge in this appeal. However, the dismissal order was not communicated to the present applicant by the learned Counsel, he could not approach the Court to prefer an application along with the appeal and therefore, delay of 300 days is caused.

3. Despite the notice served on the respondents,

none appears. After sufficient opportunity, respondents fails to appear before the Court.

4. Heard learned Counsel for applicant. Perused the application. Considering the reason mentioned in the application, which appears to be satisfactory and just one. It is well settled law that while considering the delay application, liberal approach is to be taken and not pedantic approach and due to the COVID-19 Pandemic, there were restrictions on the movement of the public at large and, therefore, the applicant could not approach to his Counsel and file the appeal within time appears to be just and reasonable cause.

5. In view of the reason mentioned in the application, the delay is condoned, subject to the costs of Rs.5000/-. After payment of the costs in this Court, the application for leave to file appeal be registered.

JUDGE

R.S. Sahare