

2024:PHHC:143026



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

CRR-2374-2023 (O&M)
DATE OF DECISION: 15.07.2024

ANKUR GARG

.....PETITIONER

VERSUS

CENTRAL BUREAU OF NARCOTICS

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Gaurav Gupta, Advocate
for the petitioner.

Ms. Puneeta Sethi, Sr. Panel Counsel
for the respondent.

SANDEEP MOUDGIL, J

1. The present revision petition has been filed, along with an application under Section 5 of the Limitation Act seeking condonation of delay of 87 days in filing the revision, against the order dated 15.04.2023, whereby the charges under section 8(c) r/w section 22(c), section 29, section 28 r/w section 21(c) and 22(c), section 30 r/w section 21(c), 22 (c) and 27(a) of NDPS Act in complaint case No. 3 of 30.06.2021 u/s 8 (c), 21, 22, 25, 27-A, 28 29, 30 and 35 of The NDPS Act, Police Station Central Bureau of Narcotics, New Delhi, have been ordered to be framed.

2. Learned counsel for the petitioner contends the in the instant case impugned order was issued on April 15, 2023, while the petitioner was in

judicial custody. The petitioner was granted bail on May 29, 2023, and was released on the following day, May 30, 2023. Due to personal family issues, the petitioner left the state and returned in mid-September 2023. Upon returning, the petitioner contacted counsel to file a revision petition. However, the respondent/CBN provided a unclear copy of the charge-sheet, making it difficult to read. The petitioner then obtained a clear copy of the charge-sheet and promptly gathered all necessary documents to proceed with the revision petition.

3. He further submits that the delay occurred is neither intentional nor deliberate and rather occurred under a bonafide beleif.

4. Heard.

5. It is to be borne in mind that the power given to the Court under section 5 of the Limitation Act to condone the delay has to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood and delay in filing an appeal ought not to be excused unless there are special circumstances. One of the essentials while adjudicating upon application of limitation is that the applicant has to show sufficient cause as to why the court should allow the application as the power to condone the delay is a discretionary power. While dealing with an application under Section 5 of the Limitations Act, the Courts are always influenced by the considerations whether the extensions of the period of the limitation is likely to affect the rights which have come to vest in the opposite party with an efflux of time.

6. The law of limitation is founded on public policy. It is enshrined in the legal maxim “interest reipublicae ut sit finis litium” i.e. it is for the general

welfare that a period of limitation be put to litigation. The object is to put an end to every legal remedy and to have a fixed period of life for every litigation as it is futile to keep any litigation or dispute pending indefinitely. Even public policy requires that there should be an end to the litigation otherwise it would be a dichotomy if the litigation is made immortal vis-a-vis the litigating parties i.e. human beings, who are mortals.

7. It is in the light of the public policy upon which law of limitation is based, the object behind the law of limitation and the mandatory and the directory nature of Section 3 and Section 5 of the Limitation Act that the court has to examine and strike a balance between Section 3 and Section 5 of the Limitation Act in the matters of condoning the delay.

8. The Apex court as far back in 1962 in the case of ***Ramlal, Motilal And Chhotelal vs. Rewa Coalfields Ltd A.I.R. 1962 SC 361*** has emphasized that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled to the condonation of delay as excusing the delay is the discretionary jurisdiction vested with the court. The court, despite establishment of a 'sufficient cause' for various reasons, may refuse to condone the delay depending upon the bona fides of the party.

9. In ***Maqbul Ahmad and Ors. vs. Onkar Pratap Narain Singh and Ors. A.I.R.1935 PC 85***, it had been held that the court cannot grant an exemption from limitation on equitable consideration or on the ground of hardship. The court has time and again repeated that when mandatory provision is not complied with and delay is not properly, satisfactorily and convincingly explained, it ought not to condone the delay on sympathetic grounds alone.

10. Further reference can be drawn upon the lately dictum of Apex court in ***“Pathapati Subba Reddy (Died) by L.Rs. & Ors v. The Special Deputy Collector (LA) [2024] 4 S.C.R. 241”*** wherein it has been observed that Equity has no place in condoning the delay under Section 5 of the Limitation Act, further the merits of the case cannot be considered while dealing with the application for condonation of delay in filing appeals.

11. This court is of the considerate view that learned counsel for the petitioner has failed to demonstrate any cogent reasons as to why this Court should condone the delay. The Court do not have un-limited and un-bridled discretionary powers to condone the delay and the discretion has to be exercised with reasonable bounds, known to law. Besides if the sufficient reasons are forthcoming in the application to condone the delay which stands satisfactorily explained by the applicant then also the court is not bound to condone the same.

12. Keeping in view the discussions made hereinabove and backdrop of facts and circumstances, no ground, much less sufficient and cogent, has been made out by the applicant/appellant for the purpose of condonation of delay of 87 days in filing the revision petition.

13. In light of the above, the present revision petition stands dismissed on the ground of delay.

(SANDEEP MOUDGIL
JUDGE

15.07.2024
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No