

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**947 CRIMINAL APPLICATION NO. 4104 OF 2024
IN ALPST/11063/2024**

**QURAISHI WASIM RAJA S/O ABDUL HAMID
VERSUS
KHALED SALIM S/O RASHED SALIM**

...
Mr. G.R. Syed, Advocate for the application.
Mr. P.C. Bhagure, Advocate for the respondent.
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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 12 FEBRUARY 2025.

ORDER:-

1. Heard rival submissions.
2. The application is for condonation of delay of 536 days in filing application for leave to appeal.
3. It is apparent from the impugned order that the criminal prosecution lodged by the present applicant against the respondent under Section 138 of Negotiable Instruments Act bearing S.C.C. NO. 2358 of 2017 before the learned Judicial Magistrate (First Class), Aurangabad. However, due to absence of applicant/complainant, the said case was dismissed in default on 08.02.2023. Though the learned Counsel for the respondent strongly opposed the application on the ground of delay being inordinate and unexplained, but considering the fact that original case filed by the applicant was dismissed in

default, it needs to be decided on merit. Under such circumstances, the application for delay as well as the application for leave to file stand allowed subject to deposit of cost of Rs. 3,000/- to be paid to respondent by the applicant within two weeks. After deposit of cost, the alternate relief in the aforesaid application for leave to file is allowed and the learned Judicial Magistrate (First Class), Aurangabad is directed to restore S.C.C. NO. 2358 of 2017 to its original stage for proceeding as per law. The parties are directed to appear before the concerned trial Court on or before 10.03.2025.

4. The applications are accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)