

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2595 OF 2025
[FOR DELAY CONDONATION]
IN
CRIMINAL APPEAL (ST) NO.14356 OF 2025

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RAMCHANDRA
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Amit Kailas Varghade

Age : 24 Years, Occupation : Business,
Residing at : 18, Parijat Apartment,
Talegaon Dabhade, Maval, Pune.

...Applicant

In the matter between:-

Amit Kailas Varghade

Age : 24 Years, Occupation : Business,
Residing at : 18, Parijat Apartment,
Talegaon Dabhade, Maval, Pune.

...Appellant

Versus

1. **The State of Maharashtra**

(Through Dehu Road Police Station)

2. **Vijay Ramsharan Thori**

(Residing at : 03, Sangita Apartment,
Vikasnagar, Dehu Road, Haveli,
Pune).

...Respondents

Smt.Pushpa Ganediwala a/w Mr.Aniket B. Rathod, Ms.Anshu Agrawal and Mr.Pradyumna Agrawal:-	Advocates for Applicant/Appellant.
Mr.Ashok S. Gawai:-	APP for Respondent No.1 -State.
Ms.Jai Kanade a/w Ms.Prachiti Naik:-	Advocates for Respondent No.2 (Through Legal Aid).

CORAM : S. M. MODAK, J.

DATE : 8th OCTOBER 2025

ORAL ORDER :-

INTERIM APPLICATION NO.2595 OF 2025

1. Heard learned Advocate for the Applicant/“*undertrial prisoner*”.

Also heard learned APP and learned Appointed Advocate for Respondent No.2.

2. As permitted on the last date, the amendment is carried out in the Application. Amended copy is also taken on record.

3. Two issues are canvassed before me. First, “*whether the delay beyond 180 days from passing of the impugned order can be condoned*” and second, “*whether the facts and circumstances warrant condonation of delay.*”

4. Learned Advocate for the Applicant relied upon following two judgments:-

(i) ***Ghulam Rasool Khan and Others V/s. State of U.P. and Others***¹

(ii) ***Amol Ashok Mali V/s. State of Maharashtra***²

5. Whereas learned Advocate for Respondent No.2, as an Officer of the Court, relied upon the observations in case of ***Rashid Kasim and***

Another V/s. State of Maharashtra³.

1 2022 SCC OnLine All 975

2 2019 SCC OnLine Bom 9649

3 2019 SCC OnLine Bom 7313

6. Certain facts which are relevant for deciding the controversy, need to be stated:-

- (a) The present Appellant applied for regular bail before the Additional Sessions Judge – Vadgaon Maval, Pune. **It was rejected on 6th December 2024.** He along with others is facing trial for commission of an offence under Sections 302, 143, 147, 149, 506, 109 of Indian Penal Code, 1860 (“**IPC**”) and under Section 3(2)(v) and Section 6 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“**SC & ST**”).
- (b) The trial has started and almost 17 prosecution witnesses were examined. During pendency of the trial, the co-accused on 25th April 2025 have applied for recalling some of the prosecution witnesses and even after the transfer of the earlier presiding officer, new presiding officer is posted there and that is how the pace of the trial has slowed down.

7. On these grounds, the Appellant is desirous of challenging the order refusing him bail. However, there is a delay of 118 days in preferring the Appeal.

Provisions of Section 14

8. There are two proviso to Sub-section (3) to Section 14 of SC & ST Act. They are:-

- (a) As per first proviso, an Appeal can be entertained after the expiry of **ninety days** on satisfaction about ‘*sufficient cause*’.

- (b) As per the second proviso, no Appeal can be entertained after the expiry of the period of **one hundred and eighty days**.

Judgments

9. Learned Advocate Ms.Kanade tried to differentiate the facts of the case of ***Amol Ashok Mali*** (*supra*). After rejection of the bail, instead of preferring an Appeal, he had preferred regular bail Application. After realizing the mistake, he withdrew it and filed an Appeal. That is how the delay has occurred. According to her, this can be considered as a ‘*sufficient cause*’ but present case does not involve similar facts and in fact, after participation in the trial, the Applicant is not justified in approaching this Court.

10. By way of assistance, she has relied upon the observations in case of ***Rashid Kasim*** (*supra*). There was a delay of 216 days in preferring the Appeal and it was on account of want of monetary resources. That is how the delay is condoned.

11. According to her, even though the observations by Full Bench of Allahabad High Court are referred in both these orders, there is no pronouncement by this Court that the delay can be condoned after one hundred and eighty days.

12. Whereas in case of ***Ghulam Rasool Khan*** (*supra*), the Full Bench

has delivered the judgment on the basis of reference made. The question of reference find place in the opening paragraph. The question No.(iv) was answered by observing that “there will not be limitation to file an Appeal.” The second proviso to Sub-section 3 of Section 14-A was struck down by the Allahabad High Court in case of ***Re: Provision of Section 14(a) of SC/ST (Prevention of Atrocities) Amendment Act, 2015*** (2018 SCC OnLine All 2087). The relevant observations finds place in paragraph No.121. They are:-

“While we reject the challenge to section 14A(2), we declare that the second proviso to Section 14A(3) is clearly violative of both Articles 14 and 21 of the Constitution. It is not just manifestly arbitrary, it has the direct and unhindered effect of taking away the salutary right of a first appeal which has been recognised to be an integral facet of fair procedure enshrined in Article 21 of the Constitution. The absence of discretion in the Court to consider condonation of delay even where sufficient cause may exist renders the measure wholly capricious, irrational and excessive. It is consequently struck down.” (Emphasis laid)

13. No doubt it is true, the Division Bench and the learned Single Judge considering the facts of that case have condoned the delay. It is also true, the observations in case of ***Re: Provision of Section 14(a)...*** were considered. So the view taken by the Allahabad High Court is

followed. There is no contrary view taken by this Court which is placed before this Court. So I find no reason not to follow the same ratio.

14. **Coming to the facts of this case:-**

It is true that Applicant has participated in the trial. In *criminal jurisprudence*, the ‘*right of speedy trial*’ is recognised as a ‘*fundamental right*’. Just because the Applicant has participated in the trial at one stage, at other stage it does not lose a right to ask for bail. The principles of trial of suit “about waiver / res judicata” cannot be applied in such contingency. In this case, the circumstances have caused apprehension in the mind of the Applicant that the trial would be delayed. I consider it as a sufficient reason for condonation of delay. **I am inclined to allow the Application.** Hence the Application is allowed in terms of prayer clause (a) and the delay is condoned.

CRIMINAL APPEAL (ST) NO.14356 OF 2025

15. Learned APP seeks time to take instructions as to how the remaining witnesses will be examined.

16. Stand over to 16th October 2025.

[S.M.MODAK, J.]