IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR CONDONATION OF DELAY) NO. 24917 of 2026
In F/CRIMINAL APPEAL/46498/2026

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TEJASKUMAR ANTARSINH PATEL
Versus
STATE OF GUJARAT

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Appearance:
MR. JAY G THAKER(9944) for the Applicant(s) No. 1
MR LB DABHI, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE GITA GOPI**
and
HONOURABLE MR.JUSTICE L. S. PIRZADA

Date : 22/10/2026

ORDER
(PER : HONOURABLE MS. JUSTICE GITA GOPI)

1. Heard the learned advocates appearing for the respective parties.

2. By way of this application under Section 5 of the Limitation Act, 1963, the applicant has prayed for condonation of delay of 117 days occurred in preferring the appeal.

3. Learned advocate for the applicant submits that the applicant was in jail and was suffering from financial crunch and had to approach the Legal Aid Committee and thus, could not seek legal assistance in time and thus, there is a delay in filing the appeal.

4. Learned APP for the respondent–State submits that the delay

in filing the appeal is not sufficiently explained and therefore, the present application may be rejected.

5. In the case of **Collector, Land Acquisition, Anantnag and Another v. Mst. Katiji and Others** reported in **AIR 1987 SC 1353**, it has been observed as under:-

> *"3. The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the Courts to do substantial justice to parties by disposing of matters on 'merits'. The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose for the existence of the institution of Courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other Courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:-*
>
> *1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.*
>
> *2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.*
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> *3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.*

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

6. In view of the principles laid down in the above-referred decision, considering the averments made in the application and as the delay is sufficiently explained, the delay of 117 days occurred in filing the appeal deserves to be condoned and is hereby condoned.

7. Accordingly, the present application is allowed.

(GITA GOPI,J)

(L. S. PIRZADA, J)

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Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MAULIK RAJESH PANDYA(HC00205), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 22/10/2026 16:59:26