

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 124 OF 2026

Nandkumar Jarnadran Bait,
Age - 45, Occupation - Business,
R/o 336, Baitwadi, Banvadi,
Nivali, Taluka and District of Ratnagiri. **...Petitioner**

VERSUS

1. Raghuvir Kashinath Sawantdesai,
Age- 61, occupation - Agriculture, R
R/o House No. 3087 K,
Sainand, Zadgaon Naka,
District : Ratnagiri.

2. State of Maharashtra. **...Respondents**

...

Mr. Rakesh Bhatkar i/by Mr. Aarya Ambulkar, Advocate for
Petitioner.

Mr. Praveen H. Deshpande, Advocate for Respondent No.1

Mr. S. H. Yadav, APP for the Respondent No.2-State.

...

CORAM : NANDESH S. DESHPANDE, J.

DATE : 12th JUNE, 2026.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the
consent of the parties.

2. The present writ petition challenges the rejection of the application for condonation of the delay of 96 days filed by the original accused for the offence committed under Section 138 of the Negotiable Instruments Act, 1881 (Hereinafter referred to as “N.I. Act”).

3. The facts as can be stated from the petition are as under :

a) The Petitioner before this Court is the original accused - Nandkumar Bait.

b) The Respondent - Raghuvir Kashinath Sawantdesai has filed a Summary Criminal Case No.1242 of 2019 before the Second Judicial Magistrate First Class, Ratnagiri, for an offence punishable under Section 138 of the N.I. Act. The matter went on trial since the accused chose to plead not guilty. Vide Judgment dated 07.11.2023, the Magistrate convicted the accused - Nandkumar Jarnadran Bait, i.e. Petitioner herein, for the offence under Section 138 of the N.I. Act and sentenced him to suffer simple imprisonment for three months. It was further directed that the accused should pay compensation of Rs. 2,60,000/- to the complainant under Section 357(3) of the Criminal Procedure Code, 1973.

In default, he should suffer further simple imprisonment for 10 days.

c) Being aggrieved by this, the Petitioner herein challenged the said judgment of conviction by filing an appeal before the Additional Sessions Judge, Ratnagiri. However, since there was a delay of 96 days, a Criminal Misc. Application No.10 of 2024 was filed for condoning the same. The learned Sessions Judge has refused to condone the delay and rejected the said application which is impugned before me in the present writ petition.

4. I have heard Mr. Rushikesh Barge for the petitioner, Mr. Praveen Deshpande, for Respondent No.1, and Learned A.G.P for the Respondent No.2-State.

5. Learned counsel for the Petitioner points out that rather than a pedantic approach, a liberal approach could have been adopted by the learned Sessions Court in condoning the delay, since the extent of delay was only 96 days. According to him, a plausible explanation has been given in the application for condonation of delay, stating that the applicant was suffering from some medical ailments. To buttress his submission, he places reliance on a Judgment of this

Court in Criminal Writ Petition No.3873 of 2025 dated 17.11.2025 in (*Aadil Ibrahim Mhaskar Versus Sikandar Sharad Chavekar and Anr.*). He therefore prays that the petition be allowed and the order refusing to condone the delay be set aside.

6. Per contra, Mr. Praveen Deshpande appearing for the respondent No.1/ original complainant, strongly opposes the contentions canvassed by the learned counsel for the Petitioner. By taking me through the record of the matter, he states that only a slipshod explanation has been given in the application seeking condonation of delay. He points me out that the application is not even signed by the present petitioner, leave apart swearing the same. He, therefore, submits that the Sessions Court was right in rejecting the application for condonation of delay in the absence of a plausible explanation in that regard. He therefore supports the impugned order.

7. I have considered the contentions canvassed by the learned counsel for the respective parties and also, with their able assistance gone through the record. It is a matter of fact that the present petitioner stood convicted vide judgment dated 07.11.2023, and the appeal was filed on 11.03.2024, thereby causing a delay of 96 days.

8. I have carefully perused the application seeking condonation of delay. The only explanation which is tendered in the said application is that the appeal has to be filed till 06.12.2023, but it was not filed due to the fact that the applicant/Petitioner, herein, was ill. It is noteworthy to mention that the application is neither signed by the Petitioner nor sworn by it. It only bears signature of the counsel. I have also gone through the order impugned, i.e., order below Exhibit-01 in Criminal Misc. Application No.10 of 2024. The Sessions Court, after perusing the entire material on record and more particularly the evidence/depositions of the parties, has recorded a finding that the petitioner herein has admitted that he was arrested on 09.03.2024 and at that time, he was examined by the Medical Officer, and the Medical Officer has given a fitness certificate.

9. After perusing the entire material on record, the Sessions Court has observed that the counsel for the respondent has produced some copies of rojnama/order sheets which show the presence of the applicant/accused before the Court during the said period. The Sessions Court has therefore proceeded to reject the

application. After going through the reasoning adopted by the Sessions Court, I do not find any perversity in the impugned order.

10. As far as the judgment relied on by the learned counsel for the Petitioner is concerned, as referred in *Aadil Mhaskar Versus Sikandar Chavekar and Anr.* (supra), the same terms on the facts cannot help to the Petitioner. There is no error of jurisdiction, nor any perversity in the impugned order. The Petition is devoid of merit and is accordingly dismissed.

Sajakali

[NANDESH S. DESHPANDE, J.]

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