



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPA) NO. 317/2026
IN
CRIMINAL APPEAL STAMP NO. 4247/2026

**Gajanan S/o Pachuram Oja Vs. The State of Maharashtra, PSO,
Through Police Station Malegaon, District Akola**

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. G.C. Khond, Advocate for Applicant
Mrs. N.R. Tripathi, APP for Respondent

**CORAM: URMILA JOSHI PHALKE AND
NIVEDITA P. MEHTA, JJ.**

DATED : 24.04.2026

1. The present application is preferred by the applicant for condonation of delay, which is caused in preferring appeal of 16701 days. It is the contention of the applicant that he was convicted for the offences punishable under Section 302 of the Indian Penal Code and sentenced to suffer imprisonment of life by judgment and order dated 15.05.1980 by the learned Sessions Judge, Akola in Sessions Trial No. 18/1980. Thereafter, he was released on parole and he was informed by his counsel that he had been acquitted in the said case and acting upon such representation, the applicant bona fide believed that he is no longer required to pursue any legal remedies and he has not preferred the appeal. He submits that the applicant has no knowledge or understanding about legal procedure. Due to such illiteracy and lack of legal awareness, he did not verify the correctness of the information provided to

him nor he did approach his counsel thereafter. Only upon his subsequent arrest, the applicant came to know that he had in fact been convicted and earlier information given to him was incorrect and therefore, delay is caused in preferring the appeal. It is further contended that he has been suffering from serious ailments, including left side empyema thoracis, which is a severe infection involving accumulation of pus in the pleural cavity of the lungs, causing breathlessness, chest pain and risk of life threatening complications. With these reasons, he prayed for condonation of delay.

2. We have heard the learned counsel for the applicant. On the basis of bald and vague omnibus statement, the present application came to be filed. Even the present application nowhere mentions the name of the counsel, when the counsel has informed him about the acquittal. Further his conduct that he was released on parole and not returned back to the jail also requires to be taken into consideration. As far as the condonation of delay is concerned, admittedly, the liberal approach requires to be taken, but when there is an inordinate delay, the reasonable and justifiable reason requires to be given by the applicant for condonation of delay. In the case of ***Shivamma (Dead) By Lrs vs Karnataka Housing Board 2025 SCC Online 19691***, wherein the Hon'ble Apex Court has examined the expression within such period in detail and in the light of the provisions of the Limitation Act and the relevant clause to take a view that the prayers to be understood as referring to both, the original prescribed period of limitation as-well as the period subsequent to

its expiry, extending up to actual date of filing of the appeal. The Court further held that the party, in such cases, is required to show “sufficient cause” for the delay for the entire duration and not for extended period. The effect of delay has been further explained by the Hon’ble Apex Court in the case of ***Ramlal, Motilal and Chhotelal Vs. Rewa Coalfields Ltd., AIR 1962 SC 361*** wherein the Hon’ble Supreme Court while adverting Section 5 of the Limitation Act held that The first consideration is that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of the decree-holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired the decree-holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge, and this legal right which has accrued to the decree-holder by lapse of time should not be lightheartedly disturbed.

3. On the point of condonation of delay, the Hon’ble Apex Court in the case of ***Baswavraj and another Vs. Acquisition Officer, AIR 2014 SC 746***, wherein held that The law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a

justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamount to showing utter disregard to the legislature.

4. Thus, the Hon'ble Apex Court in the cases where there was no sufficient cause to prevent the applicant to approach the Court application on time, condoning the delay without any justification, imposing any condition whatsoever amounts to passing of an order in violation of the statutory provisions and it tantamount to shivering utter disregard to the legislature. Thus to condone the delay while imposing costs, in utter violation amount to passing an order in violation of statutory provisions.

5. The Hon'ble Apex Court further on the law of limitation in the case of *Pathapati Subba Reddy (Died) By Lrs And ... vs Special Deputy Collector Manu/SC/0285 2020* observed in paragraph No. 16 as under :

“Generally, the course have adopted a very liberal approach in construing the phrase sufficient cause used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner

which subserves the ends of justice. This Court in advocating the liberal approach in condoning the delay for 'sufficient cause' held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of 'sufficient cause' for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases 'liberal approach', 'justice oriented approach' and cause for the advancement of 'substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.

6. Notwithstanding the above observations, the liberal approach is adopted in condoning the delay, existence of sufficient cause for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay to subject liberal approach justice for liberal approach and cause for advancement of substantial justice cannot be employed to defeat the law of limitation. So also allow stale matters or as a matter of fact the stale matters required and reopened by taking aid of Section 5 of the Limitation Act.

7. Thus the Hon'ble Apex Court in clear terms held that the existence of sufficient cause for grant of filing the appeal in time is a condition precedent for

exercising discretionary power to condone the delay.

8. Here in the present case, even considering that the applicant is a convict and languishing in jail, however, the entire application nowhere states that when he was arrested, when he was rearrested, when he was availed the facility of parole. The application nowhere mentions the name of the counsel or the counsel is not made a party to substantiate the allegation. Thus on the basis of the bald, general and vague statement the application came to be filed. Admittedly, there is no single reason given by the applicant, which would be sufficient to say that the delay was not intentional one and there is a sufficient reason for condoning the delay. Thus considering the view taken by the Hon'ble Apex Court in various matters unless sufficient cause is shown that the delay should not be condoned and therefore, the application deserves to be rejected. According we proceed to pass following order.

ORDER

Application is rejected.

(NIVEDITA P. MEHTA,J.)

(URMILA JOSHI PHALKE, J.)