



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

CRIMINAL APPLICATION [APPR] NO. 69/2026
IN CRIMINAL REVISION APPLICATION ST. NO.3005/2026.

Gautam Jyotiramji Awale.

-VERSUS-

State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri N. Dawda, Advocate (Appointed) for the Applicant.
Shri N.B. Jawade, A.P.P. for Non-applicant No.1/State.

CORAM : M.M. NERLIKAR, J.

DATE : JUNE 10, 2026.

Heard.

2. This is an application seeking condonation of delay of 2139 days in filing Criminal Revision Application, against the order dated 04.02.2020 passed by the Additional Sessions Judge-11, Nagpur in Criminal M.A.No.57/2020.

3. The learned Counsel for the applicant submits that the delay caused is not intentional or deliberate, but, it had caused only due to the circumstances beyond the control of the applicant. The applicant being a layman was not aware of the legal proceedings or procedure, regarding further steps to be

taken in the matter. It is in the year 2023, he was referred to an Advocate by his friend, who suggested that the order dated 04.02.2020, wherein the complaint under Section 156[3] of the Code of Criminal Procedure filed by the present applicant was rejected to the extent of proposed accused nos.1 to 3 ought to be challenged. It is further submitted that due to bad financial condition, the applicant was not able to engage an Advocate and therefore, he sought legal aid. That though there is huge delay, but, considering the reasons put forth, the same may kindly be condoned. It is his further submission that the delay is also caused because wrong remedy was being pursued, since the applicant had filed Leave to Appeal along with an application for condonation of delay before this Court on 19.06.2023 challenging the order dated 04.02.2020, however, the said proceeding came to be withdrawn on 01.12.2025. This Court granted liberty to file a revision and also observed that so far as the delay is concerned, it is for the concerned Court to deal with the said issue, and this Court has not expressed any opinion on delay.

4. In sum and substance, the applicant has raised three grounds for condonation of delay – Firstly, that the applicant is

a layman and not aware of legal proceeding or procedure; Secondly, due to financial condition, the applicant was not in a position to engage an Advocate; and Thirdly filing of wrong proceeding before this Court.

5. I have considered the submissions canvassed by the learned Counsel for the applicant and perused the reasons. It appears that the applicant has filed an application under Section 156[3] of the Code of Criminal Procedure for issuance of directions for registration of the first information report against 5 accused persons. The Court below i.e. the Additional Sessions Judge-11, Nagpur vide its order dated 04.02.2020 was pleased to issue directions for registration of crime against accused nos.4 and 5, however, the complaint [Exh.1] was dismissed against proposed accused nos.1 to 3. It further appears from the record that thereafter for the first time, the order dated 04.02.2020 was challenged on 19.06.2023 before this Court. The said proceeding came to be registered as Leave to Appeal. Along with this appeal, an application for condonation of delay was also filed. It further appears from the record that this Court has permitted the applicant to withdraw the proceedings, as those proceedings were not tenable and on

the request of the Counsel for the applicant, liberty was granted to pursue the remedy available. It was also observed that so far as the delay is concerned, it is for the concerned Court to deal with the said issue. The said order was passed on 01.12.2025 and thereafter, the present revision came to be filed on 23.03.2026. At this juncture, it is necessary to mention that even if the time spent before this Court is taken into consideration i.e. from 19.06.2023 to 01.12.2025, still the applicant will have to give sufficient reasons and explain the delay caused from 04.02.2020 to 19.06.2023 and from 01.12.2025 till the filing of the application i.e. 23.03.2026, meaning thereby, the impugned order which is challenged in the present proceeding was passed on 04.02.2020, whereas the said order was challenged before this Court by filing an appeal on 19.06.2023 along with an application for condonation of delay. The said proceedings were withdrawn on 01.12.2025, and thereafter on 13.03.2026 a revision along with present application for condonation of delay has been filed.

6. After considering the submissions canvassed by the learned Counsel for the applicant, and after going through the reasons, I am not satisfied and convinced with the reasons

given in the application for condonation of delay. From 04.02.2020 till 19.06.2023 i.e. after lapse of more than three years, it cannot be said that the applicant is a lay man. Infact he is pursuing other proceedings like protest petition, filed by the investigating agency. Not only that, he has also actively participated in the investigation wherein by the impugned order dated 04.02.2020 investigation is directed against accused nos.4 and 5. In such circumstances, the reason and explanation put forward by the applicant cannot be accepted.

7. So far as the financial condition of the applicant is concerned, there is nothing on record to show that he is in bad financial condition. It can be gathered from the fact that the applicant has filed a private complaint in the year 2017 by engaging an Advocate. It is further to be mentioned that in the entire application there is no satisfactory explanation, nor there are any convincing reasons put forth by the applicant for such huge delay. The Supreme Court in case of **State of Madhya Pradesh .vrs. Ramkumar Choudhary (2024 SCC OnLine SC 3612)**, in paragraph no.5 and 5.1 has held as under :

“5. The legal position is that where a case has been presented in the Court beyond limitation, the petitioner 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 Majji Sannemma v. Reddy Sridevi, it was held by this Court that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. A reference was also made to the decision of this Court in Ajay Dabra v. Pyare Ram wherein, it was held as follows:

“13. This Court in the case of Basawaraj v. Special Land Acquisition Officer [(2013) 14 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

“15. The law on the issue can be summarised 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 bona fide 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 tantamounts to showing utter disregard to the legislature.”

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant.”

Thus, it is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that, the expression ‘sufficient cause’ cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party.

5.1. In Union of India v. Jahangir Byramji Jeejeebhoy (D) through his legal heir, wherein, one of us (J.B. Pardiwala, J) was a member, after referring to various decisions on the issue, it was in unequivocal terms observed by this Court that delay should not be excused as a matter of generosity and rendering substantial justice is not to cause prejudice to the opposite party. The relevant passage of the same is profitably extracted below:

“24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause

*has been made out for condonation of such a long and inordinate delay. *

25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.

26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the

technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.

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34. In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.

35. In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not

satisfied in this case.

36. For all the foregoing reasons, this appeal fails and is hereby dismissed. There shall be no order as to costs.”

Applying the above legal proposition to the facts of the present case, we are of the opinion that the High Court correctly refused to condone the delay and dismissed the appeal by observing that such inordinate delay was not explained satisfactorily, no sufficient cause was shown for the same, and no plausible reason was put forth by the State. Therefore, we are inclined to reject this petition at the threshold.”

8. From the above observations of the Supreme Court, it could be gathered that the question of limitation is not merely a technical consideration, and the Rules of limitation are based on principles of sound public policy and principles of equity. We should not keep the ‘Sword of Damocles’ hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellant. Therefore, the reason given by the applicant that it is for the first time he met his friend in the year 2023 and his friend has suggested one Advocate, and thereafter, he has taken opinion of said Advocate, cannot be accepted as a gospel truth. The applicant is very well aware of the fact that he has filed a private

complaint and protest petition and has also actively participated in the investigation. Under such circumstances, it cannot be said that he is not aware about the legal proceedings. Even if he is not aware of the legal proceedings, that by itself is no ground to condone such inordinate delay. It is further to be noted that this Court has permitted the applicant to withdraw the proceeding on 01.12.2025, and even then he has filed this application on 23.03.2026. The applicant cannot file proceedings as per his whims and wishes. In view of the above, in my opinion, there are no sufficient, convincing and cogent reasons put forth to condone the delay. The application is accordingly rejected.

9. Fees of the appointed Counsel be determined and paid as per Rules.

JUDGE