



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2026

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

Crl.M.P.(MD)No.117 of 2026

in Crl.A(MD)SR.No.83290 of 2025

Suresh Kumar
S/o.Sooriyan
1/A/12W
Thathappankulam
5th Street
Kambam
Theni District. (Now confined at Central Prison
Madurai. As convict Prisoner)

Petitioner/Appellant/Accused

Vs

State of Tamilnadu
Represented By
The Inspector of Police,
Cumbum North Police Station
Crime No.42/2021.
Theni District.

Respondent/Complainant

For Petitioner(s):

Mr.A.Vignesh

For Respondent(s): Mr.B.Nambi Selvan

Additional Public Prosecutor

Prayer: This petition is filed under Section 5 of the Limitation Act to condone the delay of 231 days in preferring this Criminal Appeal as against the Judgment and conviction rendered in C.C.No.391 of 2021 on the file of the learned I Additional Special Court for NDPS Act Cases, Madurai, dated 20.02.2025.



WEB COPY

ORDER

This application has been filed to condone the delay of 231 days in preferring the criminal appeal against the judgment of conviction passed in C.C.No.391 of 2021 on the file of the learned I Additional Special Court for NDPS Act Cases, Madurai, dated 20.02.2025.

2. It is averred in the affidavit filed in support of this petition that since the petitioner is in judicial custody, his family members are very much affected without financial support and they were not able to arrange any advocate to prefer an appeal within the stipulated time prescribed by law. It is therefore prayed that the delay may be condoned.

3. The learned Government Advocate(Crl.side) appearing for the first respondent would submit that the delay is not sufficiently explained and prayed for dismissal of this petition.

4.I have perused the affidavit carefully. It is seen that only because of the family circumstances, the delay of 231 days occurred in filing the appeal.



WEB COPY

5. The Hon'ble Supreme Court, vide order dated 02.01.2025, in SLP.[Crl.].No.18045/2024, in the case of ***Mahesh Singh Banzara Vs. State of Madhya Pradesh***, following its earlier judgment, in the case of ***Dilip S.Dahanukar Vs. Kotak Mahindra Co. Ltd [2007 [6] SCC 528]***, held that the right to appeal, particularly, when it concerns the liberty of the individual, is a fundamental right under Article 21 of the Constitution of India and that the High Court, while dismissing the appeal solely on the ground of delay, was bound to examine the reasons for the delay. The Hon'ble Supreme Court, in the said case, condoned the delay of 1637 days in filing the appeal by accepting the similar reason of lack of monetary resources.

6. In view of the abovesaid judgment of the Hon'ble Supreme Court, this Court is inclined to give the petitioner an opportunity to contest the statutory appeal on merits. Therefore, the delay of 231 days is condoned and this petition is allowed. The Registry is directed to number the appeal if it is otherwise in order.

23.01.2026

CM



WEB COPY



N.MALA, J.

CM

CrI.M.P.(MD)No.117 of 2026
in CrI.A(MD)SR.No.83290 of 2025

23.01.2026