

GJAH020134872026



IN THE CITY CIVIL COURT AT AHMEDABAD
CRIMINAL MISC. APPLICATION NO.5942 OF 2026

Applicant/s:

ASHVINBHAI ISHWARBHAI PATEL

Versus

Opponent/s:

1 THE STATE OF GUJARAT

2 GAUTAMBHAI BABARBHAL PATEL
HEIR OF MOULIK GAUTAMBHAI PATEL

Appearance:

Mr. I.G. Zala	:	Learned Advocate for Applicant
Mr. D.P. Padhiyar	:	Learned A.P.P. for Opp. No.1-State
Mr. K.P. Hirpara	:	Learned Advocate for Opp.No.2

J U D G M E N T

1. By way of this application, the Applicant has urged this Court to condone the delay of 155 days occurred in preferring the Criminal Appeal against the Order and Judgment dated 07.02.2026 passed by the 09th Additional Chief Judicial Magistrate, N.I. Act, Court No.31, Ahmedabad in Criminal Case No.:3100006 of 2016.
2. On filing of this application, necessary notice was issued to the Opponents. Learned A.P.P. has remained present for the Opponent No.1 – State. The Opponent No.2 has appeared before the Court through their Learned Advocate who has submitted his Vakalatnama.

3. Heard the parties and read the application along with the documents produced on record.
4. Before the Court examines sufficient cause, which is one of the prime ingredients for condonation of delay under the Limitation Act, it would be appropriate to take into consideration the observation made by the Hon'ble Supreme Court in the case of Collector Land Acquisition, Anantnag & Another V/s. Mst. Katiji & Others reported in 1987 (2) SCC 107, wherein the Hon'ble Apex Court has condoned the delay '*as there was a sufficient cause to subserve the ends of justice. The expression "sufficient cause" employed by the legislature is adequately elastic to enable the Courts to apply the law in meaningful manner, which sub-serve the ends of justice.*'
5. In the case of State of Nagaland V/s. Lipok AO & Others reported in 2005 (3) SCC 752, the Hon'ble Court has held that '*the Court should not adopt injustice-oriented approach in rejecting the application for condonation of delay. It is further held therein that sufficient cause cannot be laid down by hard and fast rules. The discretion given by Section 5 should not be defined or crystallized so as to convert a discretionary matter into a rigid rule of law. The expression "sufficient cause" should receive a liberal construction.*'

6. Whereas, today the Opponent No.2 has filed their reply and strongly objected their view in relation to delay condone application, wherein it is stated that the reason mentioned in the delay application is false, fabricated and baseless and the present delay application is required to be rejected. The fact is that the Applicant has intentionally dragged the case filed in the lower court, which continued for 12 years. The Learned Advocate for the Applicant was aware of the verdict of the trial Court and though many adjournments have been given by the lower Court, lastly the trial Court has declared the verdict. It is stated that after declaration of the verdict of the trial Court, the Applicant was ordered to pay Rs.3,08,00,000/- within 60 days and if not paid then additional imprisonment of Three Months along with One Year simple imprisonment. In spite of issuance of various arrest warrants against the Applicant, the Applicant used to run away from the clutches of the Police and lastly on the basis of his phone location, he was traced out. The Applicant was in a plan to flee away from the country. The main grievance of the Opponent No.2 in this matter is such that the Learned Advocate for the Applicant was aware of the verdict of the trial Court, and his Advocate regularly used to come on the adjourned date and he is having the mobile number of the Applicant. Moreover, the Applicant is not totally illiterate, but he is running a petrol pump in partnership.

Nowadays, any person can see the Judgment through online process. Further, relying on the Judgment of the Hon'ble Supreme Court in a case of *Brijeshkumar Vs. State of Haryana* reported in *2014(A) (NCC)* , the Learned Advocate for the Opponent No.2 has submitted that the delay condone application is required to be allowed or not, rest on the basis of the said Judgment. It is stated that the delay period mentioned by the Applicant is also false. Thus, the Applicant had suppressed the material facts and falsely mislead the Hon'ble Court.

7. In view of the above sound-guided judicial principles for condonation of delay, This Court feels that there are justifiable grounds to accept the case of the Applicant, as it is stated that the verdict of the trial Court was declared in the absence of the Applicant. It is stated that the Learned Advocate has not informed about the said order of the trial Court to the Applicant. Therefore, the delay of 155 days has occurred on the part of the Applicant. It is further stated that if the delay condone application is allowed, the Applicant is ready to abide by whatsoever conditions, imposed by the Hon'ble Court. It needs to be noted that the Applicant is in judicial custody. So, keeping in view the above judicial concepts of the Hon'ble Apex Court, this Court is of the opinion that in the present case, the Applicant has sufficient cause and it requires liberal construction. The judiciary is not respected on

account of its power to legalize injustice on technical ground, but because it is capable of removing injustice and is expected to do so by making justice-oriented approach from this perspective. So, it would be in the interest of justice to condone the delay so as to extend an opportunity to the Applicant-original accused to readdress the grievances by way of proposed Criminal Appeal. Further, condonation of delay would not prejudice the right of other side as the Opponents will also get an opportunity to lead their case. Moreover, the Applicant was unaware of the outcome of the case and due to ignorance of provisions of law, the delay has been caused. So, it cannot be said that the Applicant is not conversant with the period of limitation and therefore, the cost is required to be imposed. It also transpires that the Applicant is in custody and is under execution of conviction. It transpires that the Applicant has been ordered to undergo One Year simple imprisonment. So, considering all the circumstances and considering the said delay, substantial amount is required to be imposed as costs, because the Applicant has knocked the doors of appellate court after delay of days, which are stated herein above. Hence, considering the fact of this application and arguments of Learned Advocate for the Applicant and also considering the period of delay, in the interest of justice, I pass the following order:

ORDER

- i. This application is allowed.
- ii. The delay occurred in preferring the Criminal Appeal, is hereby condoned.
- iii. The Applicant shall deposit Rs.2,500/- (Rupees Two Thousand Five Hundred only) with the Legal Services Authority, City Civil Court, Ahmedabad towards the costs within seven days from the date of this order.
- iv. On verifying as to payment of costs as directed, the Office shall register the Criminal Appeal in accordance with law.

Pronounced in the open Court on this 14th day of **August, 2026**.

Date : 14-08-2026
Place : Ahmedabad

(Nareshbhai G. Shah)
Additional Sessions Judge, Court No.12,
City Civil & Sessions Court, Ahmedabad.
(Unique ID Code No.: GJ00751)