

10.08.2026

Present: Shri V. S. Chauhan, Deputy Legal Aid Defence
counsel for the appellant.
Shri Girish Kumar Manhas, Ld. Addl. PP for the
State/ Respondent.

The present appeal has been preferred by the appellant assailing the judgment of conviction dated 12.03.2026 and the order on sentence dated 01.04.2026 passed by the Learned Trial Court. The appeal has come been instituted on 06.06.2026. Along with the appeal, an application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 28 days in filing the appeal has also been filed.

Arguments on the condonation application heard.
Record perused.

Learned counsel for the appellant submits that after the order on sentence was passed on 01.04.2026, the appellant initially intended to engage a private counsel for filing the appeal. However, owing to financial constraints, his family was unable to arrange the requisite funds and ultimately advised him to avail legal aid through the Delhi State Legal Services Authority. It is submitted that the appellant thereafter approached the concerned Jail Visiting Advocate of DLSA on 01.05.2026 and the appeal was prepared and signed by the appellant on 16.05.2026, whereafter it was forwarded through DLSA and ultimately filed before this Court on 06.06.2026. It is contended that the delay occurred on account of the aforesaid circumstances

and was neither deliberate nor intentional. *Accordingly, condonation of delay has been prayed.*

Conversely, Learned counsel for the respondent has opposed the application, contending that the appellant has failed to satisfactorily explain each day delay. It is submitted that the explanation furnished is vague and unsupported by cogent material and that the appellant was required to explain the entire period of delay. Dismissal of the application has accordingly been sought.

I have heard the submissions of the Learned Counsel for the appellant/applicant and the Learned Addl. PP for the State. Further I have also perused the application and the material placed on record.

Article 115(b)(ii) of the Schedule to the Limitation Act, 1963 prescribes a period of 30 days for an appeal against a sentence or order, where the appeal lies to a Court other than the High Court. In the present case, the order on sentence was passed on 01.04.2026, whereas the appeal was instituted only on 06.06.2026. Thus, even on a prima facie computation, the appeal has been preferred with a delay of approximately 34 days beyond the prescribed period and not 27 days as stated on behalf of the appellant.

Nevertheless, a mere incorrect computation of the period of delay would not, by itself, be determinative of the application if the explanation furnished otherwise constitutes “sufficient cause” within the meaning of Section 5 of the Limitation Act.

The principles governing condonation of delay are well settled. The expression “sufficient cause” is required to receive a liberal and justice-oriented construction so that a substantive remedy is not defeated merely on account of a technical lapse, provided the delay is not deliberate, mala fide or attributable to gross negligence. At the same time, condonation cannot be claimed as a matter of right and the applicant is required to furnish a bona fide and acceptable explanation for not approaching the Court within limitation.

In *Collector, Land Acquisition, Anantnag v. Mst. Katiji*, (1987) 2 SCC 107, the Hon'ble Supreme Court emphasised that the expression “sufficient cause” must be construed in a manner which advances substantial justice. In *G. Ramegowda v. Special Land Acquisition Officer*, (1988) 2 SCC 142, it was reiterated that where substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, provided the conduct of the party does not disclose negligence or lack of bona fides. In *Sheo Raj Singh v. Union of India*, (2023) 10 SCC 531, the Hon'ble Supreme Court again reiterated that the acceptability of the explanation, rather than the mere length of delay, is of significance while exercising discretion under Section 5 of the Limitation Act.

In the present case, the explanation furnished is that after his conviction and sentence, the appellant initially attempted to arrange a private counsel but on account of financial constraints, was ultimately compelled to seek legal assistance through DLSA. The appellant is stated to have approached the

Jail Visiting Advocate on 01.05.2026 and the appeal was thereafter prepared and signed on 16.05.2026 before being processed through DLSA and filed before this Court.

The aforesaid explanation cannot be said to be inherently improbable or lacking in bona fides. The fact that the appellant had to avail institutional legal aid while in custody and that some time was consumed in preparation, transmission and filing of the appeal through DLSA is a circumstance which deserves due consideration. There is nothing on record to suggest that the appellant had abandoned his remedy or had deliberately allowed the period of limitation to expire.

The objection that every day's delay has not been individually explained also cannot be applied in an unduly rigid or pedantic manner. What is required is a reasonable and satisfactory explanation for the period of delay as a whole and not a mathematical explanation for each individual day. The Court is required to examine whether the conduct of the appellant indicates bona fides and whether sufficient cause prevented him from approaching the Court within the prescribed period.

It is also relevant that the appeal challenges a judgment of conviction and an order on sentence. Dismissing the appeal at the threshold solely on the ground of limitation, despite a broadly plausible explanation for the delay, would deprive the appellant of an opportunity to have his conviction and sentence examined on merits. The delay, though more than what has been mentioned in the application, is not such as would, in the facts and circumstances noticed above, warrant foreclosure of the statutory remedy of appeal.

Accordingly, keeping in view the totality of the circumstances and the settled principles governing condonation of delay, this Court is satisfied that the appellant has shown sufficient cause for not filing the appeal within the prescribed period. The application of the appellant filed under Section 5 of the Limitation Act, 1963 is accordingly allowed and the delay in filing the present appeal is condoned.

The respondent/ State is at liberty to file a reply to the main appeal with an advance copy thereof to Learned Counsel for the appellant.

List for arguments on the main appeal on 13.08.2026.

Nothing observed herein shall be construed as an expression on the merits of the appeal.

(Ravinder Singh - II)
ASJ-05/South-West District,
Dwarka/ Delhi/10.08.2026