

11 CA 2115/2024

GULBADAN PANWAR Vs. RAHUL KUMAR (Mohan Garden)

24.09.2024.

Present: Shri Rohan Kumar, Ld. Counsel for Appellant.
Appellant produced from Judicial Custody.

Summons issued to the respondent has been received back with the report that the respondent does not reside at the given address. The address however is the address mentioned by the respondent before the Ld. Trial Court.

Arguments heard on the application under Section 5 of Limitation Act for condonation of delay.

It is argued by Ld. Counsel for the appellant/convict that order on sentence was passed on 27.07.2024 and the appeal has been filed with a delay of 5 days only. It is submitted that the delay was caused by the accused being in judicial custody in another case and therefore being unable to communicate effectively with his counsel in the matter at hand. It is prayed that there is delay of only five days in filing the present appeal, which is neither deliberate nor intentional and same may kindly be condoned.

In *Collector Land Acquisition v. Katiji*, 1987 (2) SCC 107, a two judge bench considered the question of the limitation in an appeal filed by the State and held that Section 5 Limitation Act was enacted in order to enable the court to do substantial justice to the parties by disposing of matters on merits. The expression “sufficient cause” is adequately elastic to enable the court to apply the law in a meaningful manner which subserves the ends of justice - that being the life-purpose for the existence of the institution of courts.

Therefore, a lenient view is taken and in the interest of justice, present application for condonation of delay is allowed.

Heard on the appeal.

The appeal is admitted subject to just exceptions.

An application for suspension of sentence and grant of bail is filed alongwith the present appeal.

Heard. Record perused.

The impugned order of sentence dated 27.07.2024 stands **suspended** and **appellant is admitted to bail** on his furnishing personal bond and surety bond in the sum of **Rs.10,000/-** to the satisfaction of the concerned Ld. MM/Ld. DutyMM/Ld. Link MM.

The appellant is also directed to deposit **20%** of the **compensation amount** within 30 days from today in the form of FDR/DD/Banker's Cheque in the name of 'Ld. Principal District & Sessions Judge, South-West District, Dwarka Courts, New Delhi'.

Since report has been received that the respondent does not reside at the given address, and no fresh address is available with the appellant. **Time is given to furnish fresh address, if any,**

Trial Court Record be summoned for the next date of hearing.

On request, copy of the order be given *dasti*.

List the matter for appearance and reply on **26.09.2024**.

(SADHIKA JALAN)

Addl. Sessions Judge (FTSC) (RC)
South West District, Dwarka Courts
24.09.2024(pk)