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Decided on	<u>20.06.2026</u>
Duration	19 02 00
Exh. :	D M Y

**IN THE COURT OF HON'BLE PRINCIPAL DISTRICT & SESSIONS
JUDGE, DIST.ARVALLI AT MODASA.**

Cr. Misc. Application (Delay)No. 417 of 2026

Applicant :

Ushaben W/O Manharbhai Patel,
Age: 53, Female,
Residence: Patelvaas,
Old Vasni, Tal. Bayad,
District: Arvalli.

V/s.

Opponents :

- 1 The State of Gujarat ,
Notice to be served through,
Public Prosecutor,
District Court,
Arvalli at Modasa,
- 2 Harsh Naranbhai Patel,
Male, Adult,
Residing at: Old Vasni, Tal. Bayad,
District: Aravalli,
(Police Station: Bayad Police Station)
Also having his address at: F-3/A, Rajdhani Apartment,
Memnagar, Ahmedabad - 380052.
(Police Station: University Police Station)

APPEARANCES :-

For the Applicant.	Ld. Advocate, Mr. V.H. Pandya
For the State.	Ld. PP.
For the opponent No.1.	Ld. Advocate Mr. A.G. Prajapati,

Application for the condonation of delay U/s 5 of the Limitation Act.

J U D G E M E N T

1. The appellant has preferred this application u/s 5 of Limitation Act to condone delay of Four (4) days occurred in filing appeal against the Judgment and order dated 05.08.2025 passed by the Ld. Additional Chief Judicial Magistrate, Bayad, in Criminal Case No. 1363 of 2021.
2. **The brief facts of the present application are as under :-**
- 2.1 It is the case of applicant that the Ld. Trial Court passed the judgment and order on 05.08.2025 and the applicant was required to file appeal within prescribed time limit but he could not do so because the appellant was not aware about the judgment passed by the learned Court and punishment imposed by the learned Court below, therefore the delay of four (4) days had taken place. Hence, the applicant preferred this application with delay and also submitted that delay condone for four (4) days may be allow in the interest of justice.
3. Learned Advocate for Opponent No. 2 appeared before this Hon'ble Court and made an oral statement submitting that he has no objection if the delay is condoned.
4. I have heard Ld. advocate for the parties at length. According to provisions of the Limitation Act, Court has to keep in mind that discretion given by the Statute has to be exercised to advanced substantial justice. Moreover Hon'ble Supreme Court and High Court have time and again emphatically held that on the point of condonation of delay whenever there is a delay, be it for few days or gross in filing Revision or an Appeal where, substantial justice is found to be pitted against the technical justice, the same is ordinarily and as a matter of cause in over all interest of justice, is required to be condone. This is so with a view to see that as far as possible, the cases should be decided on merits rather throwing them on technical ground of delay. It is also well settled that in condoning delay, liberal approach should be taken.
5. Considering the settled principles of law, it is always better to decide the

matter on merits rather than on technical grounds. Our Hon'ble High Court has held in various judgments that too much technical view of the matter should not be adopted. The Courts are here to do substantial justice to the litigating parties and whenever the technical view and the substantial justice are confronted with each other, at that time, always preference must be given to substantial justice which can be done only by affording opportunity of hearing to both the parties. Considering the settled principles of law and the fact that Learned Advocate for Opponent No. 2 appeared before this Hon'ble Court and made an oral statement submitting that he has no objection if the delay is condoned. However it appears that, the judgment and order is pronounced on 05.08.2025 and appellant is absconded since then, therefore considering the period of delay, it would be justified that the delay in filing appeal is condoned with costs. Hence, the present application deserves to be allowed and following order is passed.

: ORDER :

1. The present application filed by the applicant, is hereby allowed.
 2. Delay of four (4) days, caused in filing Appeal, is ordered to be condoned subject to deposit Rs. 1000/- as a cost with District Legal Service Authority, Modasa within Seven days of this order.
 3. The registry is directed to register appeal according to the law.
- Signed and pronounced in the open Court today, on this 20th day of June, 2026 at Modasa.

DATE: 20/06/2026
PLACE: MODASA

(Rajkumar Ramsinh Chaudhary)
Sessions Judge
Arvalli at Modasa
CODE NO.GJ01512