



Received on 12.11.2025
Registered on 12.11.2025
Decided on 16.03.2026
Duration
Exh. : D M Y

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

Cr.Misc. Application (Delay)No.1169 of 2025

Applicant :

Kuldipbhai Mahendrabhai Bharvad
Adult, Occupation : Agriculture & animal husbandry
Residence : Khadol, Tal.Dhansura, Dist.Arvalli.

V/s.

Opponents :

- 1 Bachubhai Shibhabhai Bharvad
Adult, Occupation : Agriculture
Residence : Sardi, Tal. Dhansura, Dist.Arvalli.
- 2 The state.
(notice be serve to Ld.PP.Modasa)

APPEARANCES :-

For the Applicant.	Ld.Advocate, Mr.J.S.Bharvad.
For the opponent No.1.	Ld.Advocate, Mr.S.B.Vanand.
For the State.	Ld.PP.

**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 2 days occurred in filing appeal against the Judgment and order dated 10.10.2025 passed by the Ld.Chief Judicial Magistrate,

Modasa, in Criminal Case No.677 of 2025.

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 10.10.2025 and the applicant was required to file appeal within prescribed time limit but he could not do so because of illness of his father. Hence, the applicant preferred this application with delay and also submitted that delay condone may be allow in the interest of justice.

3. Today Ld.advocate for the respondent No.1 appeared before this court and filed a pursis Ex.13 stating that he has no any 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 Ld.advocate for the opponent No.1 appeared before this court and filed a pursis Ex.13 stating that he has no any objection if the delay is condoned. Considering the period of delay, it would be justified that the delay in filing appeal is condoned. 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 2 days, caused in filing Appeal, is ordered to be condoned.
3. The registry is directed to register appeal according to the law.

Signed and pronounced in the open Court today, on this 16th day of March, 2026 at Modasa.

DATE:16/03/2026 (**Mrs.Asha Nileshkumar Anjaria**)

PLACE: MODASA

Sessions Judge

Arvalli at Modasa

CODE NO.GJ00348

MMK