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Duration:	Y-00-M-01-D-27

**IN THE 2ND ADDITIONAL SESSIONS COURT, PALANPUR
AT - BANASKANTHA**

CRIMINAL MISC. APPLICATION NO. 152 of 2026

Exhibit No.____

**Applicant : Guardian Mr. Amrabhai Jagshibhai Patel (Chaudhary)
on behalf of Juvenile Ms. Komalben Amrabhai
Patel (Chaudhary)**

Age: 50 years, Occupation: Farmer,

R/o. Jada, Taluka: Deodar, Dist: Banaskantha

Versus

Opponent : State of Gujarat

Appearance :

Ld. Advocate **Mr. N.J.Shrimali** for Applicant.

Ld. A.P.P. **Mr. D.H. Chappiya** for Opponent.

[Application for Condonation of Delay]

JUDGMENT

- 1]** Learned Advocate for the applicant has submitted that delay has occurred in filing application against the order dtd. 02/01/2026 delivered in Juvenile Criminal Case No. 54/2020 by the Principal Magistrate Court (Juvenile Justice Board), Palanpur. It is submitted that applicant is not having any knowledge regarding the judgment

and order passed by the Ld. Trial Court and later when he came to know about the same, he has contacted his learned advocate and the learned advocate had approach this court for filing the appeal, but not in the stipulated time limit and therefore, there is a delay of **09 days** in filing the appeal.

- 2] Notice was duly served to the opponent but the opponent has not appeared and they have chosen not to contest this application of the applicant.
- 3] Heard learned advocate for the applicant at length on various points.
- 4] This Court has considered the submission of applicant and framed following points for the final determination of the issue involved.
 - (1) Whether there is sufficient cause to condone the delay occurred in filing the application for restoration ?
 - (2) What order?
- 5] My findings on the above points are as under:
 - (1) In the affirmative.
 - (2) As per final order.

REASONS

Issue No. 1 and 2:

- 6] Learned Advocate for the applicant has submitted that delay occurred in filing application against the order dtd. 02/01/2026 delivered in Juvenile Criminal Case No. 54/2020 by the Principal Magistrate Court (Juvenile Justice Board), Palanpur. It is submitted that applicant is not

having any knowledge regarding the judgment and order passed by the Ld. Trial Court and later when he came to know about the same, he has contacted his learned advocate and the learned advocate had approach this court for filing the appeal, but not in the stipulated time limit and therefore, there is a delay of **09 days** in filing the appeal.

- 7] Despite being granted with the ample opportunities, the opponent has chosen not to contest the present application.
- 8] Before dealing with the issue let us go through the basic provisions of Limitation Act as well as historical development of Law of Limitation, its object, scope and purpose to decide present application in its true sense. The general rule of law is **"UBI JUS IBI REMEDIUM"** means where there is right there is remedy. Now if we consider the Section-3 of the Act, it bars the remedy and curtail the remedy of litigant to file active proceedings in court of law after completion of prescribe period. Thus, it seems that provisions of Limitation Act are exception to general rule **"UBI JUS IBI REMEDIUM"**. Having said that, if we consider the provisions of section 5 of the Act, it extends the prescribe period in certain cases, if appellant satisfies the court that, he had sufficient cause for not preferring application in stipulated time. Thus section 5 of the Act is exception to the law of Limitation Act, and make situation as if there is no Limitation. Thus again the previous general rule **"UBI JUS IBI REMEDIUM"**. Now the question arise if this is the situation than why the law of limitation was introduced? Why remedy

were curtailed? why rule of law **"UBI JUS IBI REMEDIUM"** was restricted? we can trace the answer from the Roman legal system. As Indian Legal System is based on English law and English legal system is based on Roman law. In the year 1424, Emperor Theodosium of Roman empire first time introduced statute of limitation. The statute was based on following 2 legal maxims.

1. "Vigilantibus non dormientibus jura subveniunt"

The law help or assist those who are watchful of their rights, not those who are careless of them. Law helps vigilant not negligent.

2. "Interest reipublicae ut sit finis litium"

It is for the interest of the State that there should be an end of law suits. Applying the maxim "vigilantibus non dormientibus jura subveniunt" means the laws come for rescue of those who are vigilant but were not sleepy.

8.1] In this context, the maxim "***Interest reipublicae ut sit finis litium***" cannot be lost sight of which means that there should be an end of litigation and interest of the State also requires that there should be an end to the litigation so as to avoid uncertainties and possibilities of the parties being dragged into Court for indefinite period and to get over this the law of limitation has been enacted extending a valuable right in favor of the party against whom no action is brought before the Court within the stipulated time period of limitation.

8.2] Thus on above historical background, we can find that, remedy is always there, but State has imposed time limit to file the litigation. Object is to fix a period within which all sorts of claim were to be instituted. Also to see that defendant might not have lost the evidence to dispute the stale claim. Person with good cause of action should pursue them also to induce the claimant to be Prompt in claiming relief & in avoiding un-expected delay and latches. Ultimately, the Long Dormant claims have more of cruelty than justice in them. Having said that Sec. 5 again confers power with court to condone the delay where appellant satisfies the court that he has a sufficient cause. Upon this back ground let us see the current and established turned of Law in delay condone.

9] The primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. The time limit fixed for approaching the Court in different situation is not, because on the expiry of such time, a bad cause would transfer into a good cause. Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The Law of Limitation is thus founded on public policy. Condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only, if the delay is

within the certain limit. Length of delay is no matter, acceptability of the explanation is the only criteria. In every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. The words “sufficient means” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice. The Court should be ordinarily lenient and liberal in determining the sufficiency or reasonability of ground for condonation so as to see that no meritorious matter is thrown away on a technical plea of delay.

10] Before dealing with the issue raised in case on hand principles delivered by Hon'ble Apex court in case of **E. Bhattacharjee v. Managing Committee of R. N. Academy“ reported in 2013 AIR SCW 6158** is required to consider. In this case the Hon'ble Apex Court culled out certain principles/ Approach to be adopted by Courts while dealing with application for condonation of delay:-

10.1] The principles that can broadly be culled out are:

- (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the Courts are not supposed to legalize injustice but are obliged to remove injustice.*
- (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.*

(iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

(iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

(v) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

11] Thus, on above guided principles of Hon'ble Apex Court and by perusing the record of case on hand the delay occurred in this case is of **09 days**, which is due to delay in informing to the present applicant by his learned Advocate about the dismissal of the matter, the present applicant could not file restoration application within time limit. The delay is not in long range. Having regard to the peculiar facts and circumstances of the case, the explanation are acceptable and as per my opinion, this is a very fit case, where the delay should be condoned, because by condoning the delay, the appellant does not stand to benefit and refusing to condone the delay is likely to result a meritorious matter being thrown down whereby cause of justice is likely to be defeated. By condoning the delay, the highest that can happen is that the case be decided on merits after hearing the parties. In this particular case, the satisfactory explanation is there and therefore, looking to the peculiar facts and circumstances, I answer point No.1 in the affirmative, and for the point No.2, I pass the following order :

~: O R D E R :~

1. The present Delay Condonation application is allowed.
2. The delay caused in filing the application is hereby condoned and the application be numbered and registered accordingly.

Pronounced in the open Court today on this **7th day of April, 2026**.

Date :-07-04-2026
Place:- Palanpur.

[Amitkumar J. Kanani]
2nd Additional Sessions Judge,
Palanpur, At- Banaskantha
(Unique I.D. Code No.GJ00662)

// Dabhi //