

Received on : 11.03.2026.
Registered on : 11.03.2026.
Decided on : 13.03.2026.
Duration : YY MM DD

IN THE COURT OF THE SESSIONS JUDGE, BHAVNAGAR

Miscellaneous Criminal Application No. 469 / 2026

Exh.03

1. **Gautambhai Keshavbhai Kantiya**
Aged : 54 years, Occu. : Business,
Address : Mahavirnagar, Mochi Society,
Lathi, Amreli.

At present : District Jail, Bhavnagar.

.. .. **PETITIONER**
(Ori. Accused)

VERSUS

1. **Mehul Popatbhai Zanzmera**
Aged : 34 years, Occu. : Service,
Authorized person of
M/s. Cholamandalam Investment and Finance Co. Ltd.
Address : Third floor, Eva Complex,
Opp. Gulistaan Ground, Waghawadi Road,
Bhavnagar.

2. **The State**
Notice to be served through
APP office situated at Court Building,
Bhavnagar.

.. .. **OPPONENTS**

Appearance :-

Mr. R.V.Parmar, Learned Advocate for the applicant

The opponent no.1 has been duly served

Mr. M.H.Maheta, Learned APP for the opponent no.2 – State

:: JUDGMENT ::

1. By filing the present application under Section 5 of the Limitation Act, the petitioner – original accused seeks condonation of the delay of ***one year and eight days*** caused in filing the appeal against the ***Judgment and order dated 04.03.2025 passed in Criminal Case No. 2517 / 2024***, whereby the Learned Additional Chief Judicial Magistrate, Bhavnagar, was pleased to convict the petitioner – original accused.
2. The applicant-appellant submits that after the summons/notice were served upon the applicant-appellant, a bereavement occurred in the family of the applicant-appellant, due to which the applicant-appellant could not appear before the learned Trial Court. Consequently, the learned Trial Court proceeded to hear the matter ex-parte and passed an ex-parte order against the applicant-appellant in the absence of the applicant-appellant. It is submitted that when the applicant-appellant made inquiries regarding the said case, the applicant-appellant came to know that the learned Trial Court had passed an order dated 04/03/2025 against the applicant-appellant, and it is only thereafter that the applicant-appellant personally appeared before the learned Trial Court. In the circumstances aforesaid, there has been an unintentional delay of 1 year and 8 days in filing the present appeal, which is neither willful nor deliberate.

It is therefore most humbly prayed that this Court may be pleased to condone the said delay and admit the appeal in the interest of justice.

3. The Learned Advocate for the petitioner has argued that the delay is neither intentional nor deliberate but was caused due to genuine difficulties. It is further contended that if the delay is not condoned, the petitioner will suffer irreparable loss and hardship, as he will be deprived of the opportunity to seek legal redress against the impugned order.
4. The Learned APP for the opponent no.2 – State has fairly submitted that if the Court is of the view to condone the delay then the necessary order may be passed.
5. Having heard both sides and perused the records, this Court is of the view that the grounds mentioned by the petitioner for seeking condonation of delay appear to be reasonable and bonafide. The right to seek justice should not be defeated on technical grounds, particularly when the delay is caused due to unavoidable circumstances.
6. The Hon'ble Supreme Court, in *N. Balakrishnan v. M. Krishnamurthy* [(1998) 7 SCC 123], held that the length of delay is immaterial under Section 5 of the Limitation Act—what matters is whether a reasonable and bona fide explanation is provided. The rules of limitation are not meant to extinguish genuine rights but to prevent dilatory tactics and uphold substantial justice. Similarly, in *Esha Bhattacharjee v.*

Managing Committee of Raghunathpur Nafar Academy [(2013) 12 SCC 649], the Court reiterated the need for a liberal, pragmatic, and justice-oriented approach when considering delay condonation applications, emphasizing that technicalities should not undermine a litigant's right to be heard.

7. Upon perusal of the petition filed by the petitioner – original accused and considering the facts stated in the application, this Court, without delving into technicalities, and keeping in mind the principles of natural justice, is of the view that the present application deserves to be allowed. The Court is guided by the settled position of law, as laid down by the Hon'ble High Court and the Hon'ble Apex Court, that litigants should not be deprived of their legitimate rights merely on technical grounds, without being afforded a reasonable opportunity of being heard. While considering an application for condonation of delay, a pragmatic and justice-oriented approach must be adopted. Wherever possible, Courts must be inclined to condone the delay so as to enable the parties to contest the matter on merits, rather than non-suited them at the threshold on procedural grounds.
8. Hence, in view of the aforesaid the present application deserves to be allowed. Accordingly, I pass the following order in the interest of justice :

:: ORDER ::

1. The present Miscellaneous Criminal Application is hereby allowed.

2. The Registry concerned to register the Appeal.
3. It is needless to state that this Court has not entered into merits of the case and it is further clarified that the findings arrived at by this Court are tentative in nature and pertains to the present application only and would not affect any such contention raised by the party interested at the time of trial and same would be considered on its own merits without being influenced by the reasons being assigned herein-above.

Dictated and pronounced in the open Court on this 13th day of **March, 2026.**

Date : 13.03.2026.
Bhavnagar.

(H.S.Mulia)
SESSIONS JUDGE,
BHAVNAGAR.
UNIQUE ID CODE NO. GJ00915

aniel paremall