

Order Below Exh. 1 in Cr. Misl. Appl. No. 913/2025

- 1.** The applicant has instituted the present application for the condonation of 137 day delay for preferring Criminal Revision Application against the judgment dated 15.05.2025 passed by the Learned 2nd Additional Judicial Magistrate, Botad in Criminal Misc. Application No. 356/2025 wherein the Learned Magistrate has been pleased to pass order bellow exh. 01. It is further contended that the Revision Application against the impugned order should have been filed within the stipulated time, but in doing so, a delay of 137 day has been caused by the applicant due to the reasons cited in the present application. Hence, it is prayed to condone the delay of 137 day caused in preferring the Revision Application against the order in question.
- 2.** On presentation of this application, Ld. PP is remain present on behalf of opponents no.1 before this court.
- 3.** I have given my thoughtful consideration to the submissions made by learned advocates for applicant.
- 4.** First of all, I would like to make it clear that the present application is regarding condonation of delay and the merits of the appeal or the submissions regarding the conduct of the applicant cannot be considered at this stage. Court has to see the reason for delay and whether it can be condoned or not ? The merits of the case and the status of the applicant is the subject matter of the Revision Application I

and when such Revision Application will be before the Court, the Court can deal with all the issues.

- 5.** In view of the above, now let us see whether the delay can be condoned and the reason for the delay are such which inclined the Court to condone the same. It is therefore, apt to refer the law and proposition laid down by the Hon'ble Apex Court in the case of **N. Balkrishnan V/s M Krishnamurthy reported in AIR 1998 S.C 3222**, wherein the Hon'ble Court has held as :-

Para-9 *It is axiomatic that 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 a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to want of acceptable explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory. Once the Court accepts the explanation as sufficient it is the result of positive exercise of discretion and normally the superior Court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first Court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior Court to come to its own finding even untrammelled by the conclusion of the lower Court.*

Para-10. *The reason for such a different stance is thus : The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. Time limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.*

Para-11. *Rules of limitation are not meant to destroy the right of 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. Law of limitation fixes a life span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.*

Para-12. *A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi Jain v. Kuntal Kumari, AIR 1969 SC 575 and State of West Bengal v. The Administrator, Howrah Muni-cipality, AIR 1972 SC 749.*

Para-13. *It must be remembered that 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. If the*

explanation does not smack of mala fides or it is not put-forth as part of a dilatory strategy the Court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the Court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite a large litigation expenses. It would be a salutary guideline that when Courts condone the delay due to laches on the part of the applicant the Court shall compensate the opposite party for his loss."

6. Looking to the reasons shown by the present applicant, there is no impediment to disbelieve the grounds shown by the applicant for condonation of delay. The doctrine must be applied in a rational common sense pragmatic manner when substantial justice and technical considerations are pitted each other. 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. It is desirable that each matter should be decided on merits and it should not be thrown away at the threshold on technical grounds of delay.

7. This Court has given a thoughtful consideration to the submissions advanced in this regard. The reasons shown in the application appears to be genuine, there is sufficient cause for condonation and considering the fact that there is delay of 137 day from the date of judgment. Therefore, the matter should not be thrown away on technical grounds while deciding the application under Section 5 of the Indian Limitation

Act. If the delay would not be condoned the purpose for filing the appeal would be frustrated, therefore, looking to the facts and circumstances of the case and in view of the material available on record this is a fit case, wherein delay as prayed for requires to be condoned and the applicant may be given opportunity to contest the appeal on merits, if maintainable. Hence, I pass the following final order in the interest of justice :

:: ORDER ::

1. The present application stands as **allowed**.
2. The delay caused in preferring the Criminal Revision Application is hereby condoned.
3. The registry is directed to register the Criminal Revision Application after following due process and to proceed the matter further in accordance with law.

Pronounced in the open Court on this **24th day of March, 2026**.

DATE : 24.03.2026
B O T A D

(M.J. PARASHAR)
SESSIONS JUDGE,
BOTAD
UI Code No.GJ00463.