


Criminal Miscellaneous Application No.	316 of 2026
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GJJM010008142026	 सत्यमेव जयते	<b>Filed on</b>	07.03.2026
		<b>Registered on</b>	07.03.2026
		<b>Decided on</b>	25.05.2026
		<b>Duration</b>	00Y 02M 18D
		<b>Exh.</b>	09
CRMA S/316/2026			

**IN THE COURT OF 02ND ADDITIONAL DISTRICT & SESSIONS JUDGE, AT JAMNAGAR.**

Criminal Miscellaneous Application No.	316 of 2026
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**Applicants :-**

**(1) Brijes Bhaveshbhai Pandya,**

Aged : 30 Years, Occupation : Job

**(2) Hemlataben Bhaveshbhai Pandya,**

Aged : 57 Years, Occupation : Household work

**(3) Bhaveshbhai Kisborbhai Pandya,**

Aged : 60 Years, Occupation : Job

**(4) Radhika Haritbhai Raval**

Aged : 33 Years, Occupation : Household work

R/o. All are residing at B-13, Row-house,

Arihant Nagar,

Bhuj (Kachchh).

**(5) Gitaben Pramodbhai Dave**

Aged : 47 Years, Occupation : Household work

R/o. Government Press Quarter No.E-48,

Ruda and behind Collector Office,

Rajkot.

**V E R S U S**

**Respondents :-****(1) Dipali Brijeshbhai Pandya**

Aged : 28 Years, Occupation : Household work

**(2) Minor Vedanshi Brijeshbhai Pandya**

Aged : 02 Years,

R/o. In the house of Manuben Lakhmanbhai Dangar

Plot No.2/2, Vrundavan Park, Street No.1, beside Ahir Samaj,

Gulabnagar, Jamnagar.

**Subject:-An application to condone the delay in preferring an appeal.**

**Appearance:-**

Learned advocate Mr.D.N.Bheda for the applicants.

Learned advocate Mr.A.V.Parmar for the respondents.

**J U D G M E N T**

1. The present application has been preferred u/s 5 of the Limitation Act for seeking the condonation of delay of 140 days in preferring the appeal against the impugned order dated 20/09/2025 passed by Learned 02<sup>nd</sup> Additional Judicial Magistrate (First Class), Jamnagar in Criminal Misc. Application No.402 of 2022 which has been partly allowed.
2. The notices of the application were issued to the respondents and in pursuance thereto Mr.A.V.Parmar, learned counsel for the respondents.
3. I have heard the applicant. He submitted that the learned Trial Court has passed the order on 20/09/2025 and the

applicant/appellant had to file an appeal up till 19/10/2025, but the present applicant could not prefer the appeal within the period of limitation owing to the reason that applicant's parents are old and ill as well as he doing the job as Ayurvedic Doctor on contract basis, therefore, he could not contact with the Ld.Advocate, therefore, delay of 140 days has occasioned in preferring the appeal. He further submitted that the delay is neither intentional nor mala-fide but owing to the reason mentioned in the application. Therefore, the present application for condonation of delay deserves to be allowed.

4. Learned advocate for the respondents Mr.A.V.Parmar filed objection vide Exh.7 against the present application.
5. I have considered the submissions of the learned counsel for the parties and perused the record. Perusal of the record transpires that the impugned judgment was passed on 20/09/2025. The appeal along with the present application for condonation of delay has been filed on 07/03/2026. The reasons in the present application appears to be genuine. It is settled preposition of law that the delay of any length can be condoned if it is properly explained. It is also settled preposition of law that to condone the delay it is discretionary power of the Court and the Court must use the discretionary power judiciously. Therefore, in my considered view the delay has been explained.
6. At this juncture, it would be profitable to refer the judgment of Hon'ble Supreme Court in the case of *Collector, Land Acquisition, Anantnag v. Katiji, reported in 1987(2) SCC*

**107**, wherein the Hon'ble Supreme Court has laid down following guidelines for condoning the delay:

*"(1) Ordinarily a litigant does not stand to benefit by lodging an appeal late.*

*(2) Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.*

*(3) "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay. every second's delay ? The doctrine must be applied in a rational common sense pragmatic manner.*

*(4) When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*

*(5) There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.*

*(6) It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."*

7. Thus, having regard to the totality of facts and circumstances, and the law laid down by the Hon'ble Supreme Court in the case of ***Katiji (supra)***, the present application deserves to be allowed, and accordingly I pass the following order :

#### **FINAL ORDER**

- (1) The present application is hereby allowed and delay of 140 days in preferring the appeal against the impugned order is condoned on a condition to deposit cost of **Rs.7,000/- (Rupees Seven Thousand Only) before the DLSA, Jamnagar.**
- (2) The Registry is hereby directed to register the appeal if it is in proper form and manner.

- (3) Copy of this order be placed in appeal which is going to be registered.
- (4) No order as to costs.

This order is pronounced and signed in the open Court on this 25<sup>th</sup> day of May - 2026 under my hand and seal.

**(Vijay Premchand Agrawal)**

Date:25/05/2026

02nd Additional Sessions Judge Jamnagar

Place:Jamnagar.

UIC No.GJ00689

*UMESH*