

Criminal Miscellaneous Application No.	768 of 2026
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GJJM010020592026  CRMA S/768/2026	 सत्यमेव जयते	Filed on	10.06.2026
		Registered on	10.06.2026
		Decided on	11.06.2026
		Duration	00Y 00M 01D
		Exh.	04

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

Criminal Miscellaneous Application No.	768 of 2026
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Applicant :-

Ankitkumar Balvant Kubavat

Aged : 40 Years, Occupation : Job

R/o. Yogeshwar Nagar – 2, Plot No.139/1,
behind Mohannagar Avas, Gulabnagar, Jamnagar.

V E R S U S

Respondents :-

(1) Anil Balchand Motvani

Aged : 39 Years, Occupation : Business

R/o. Riddhi Siddhi Residency, Block No.A-201,
Vasant Vatika Ranjitsagar Road, Jamnagar.

(2) The State of Gujarat

Through DGP, Jamnagar.

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

Appearance:-

Mr. S.K.Parmar, learned counsel for applicant.

None appeared on behalf of respondent No.1.

Mr. R.K.Vasiyar, learned APP for the State/Respondent No.2.

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 434 days in preferring the appeal against the impugned judgment and order dated 02.04.2025 passed by Learned 07th Additional Chief Judicial Magistrate, Jamangar in C.C. No.3968 of 2024, whereby the applicant was held guilty and convicted under the provisions of Section 138 of Negotiable Instruments Act.
2. The notices of the application were issued to the respondents and in pursuance thereto Mr.R.K.Vasiyar, learned APP put his appearance on behalf of Respondent No.2.
3. I have heard the learned counsels for the parties. Learned counsel for the applicant submitted that the learned Trial Court has passed the judgment on 02.04.2025 and the applicant/appellant had to file an appeal up till 01.05.2025, but the present applicant could not prefer the appeal within the period of limitation owing to the reason that applicant was out of station for necessary work, therefore, the delay of 434 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 Additional Public Prosecutor appeared on behalf of respondent No.2/State has stated to pass necessary order in the interest of justice.

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 and order was passed on 02.04.2025. The appeal along with the present application for condonation of delay has been filed on 10.06.2026. 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 434 days in preferring the appeal against the impugned judgment is condoned on a condition to deposit **Rs.10,850/- (Rupees Ten Thousand Eight Hundred Fifty 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 11th day of June - 2026 under my hand and seal.

(Vijay Premchand Agrawal)

Date:11/06/2026

02nd Additional Sessions Judge Jamnagar

Place:Jamnagar.

UIC No.GJ00689