

GJKT150005152025



Presented on : 04-03-2025

Registered on : 04-03-2025

Decided on : 08-08-2026

Duration :

Ex. ____

**IN THE COURT OF 6TH ADDITIONAL SESSIONS JUDGE,
GANDHIDHAM-KACHCHH**

CRIMINAL MISC. APPLICATION NO. 117/2025

Appellant : **Axis Bank Ltd.**
 (Panposh Road, Rourkela Branch)
 Branch ID : 1067,
 Shri Laxmi Narayan Complex,
 Panposh road, rourkela,
 District : Sundargarh, Orissa,
 Through its Branch Head,
 Satya Sunder Samal.

V E R S U S

Respondents : **(1) The State of Gujarat**
 Through the Ld. APP,
 Cyber Crime Police Station,
 East Kachchh, Gandhidham-Kachchh.

(2) Chatbar Dilipbhai Gangarambhai
 Survey No. 11, Bhavanipur area,
 Bhachau-Kachchh.

Appearance :-

Ld. Advocate Mr. P. S. Purani for the Appellant.

Ld. APP Mr. S. G. Rana for the State.

The respondent No. 2 absent though being served.

::JUDGMENT::

1. The applicant, Axis Bank Ltd. (Panposh Road, Rourkela Branch, Odisha), has preferred a Criminal Miscellaneous Application seeking condonation of a delay of 442 days in filing the accompanying Criminal Revision Application under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 397 Cr.P.C.). The revision challenges the order dated 18/09/2023 passed by the learned JMFC in Criminal Misc. Application No. 1281/2023, whereby the applicant-bank was directed to deposit Rs.10,000/- into the bank account of the original complainant maintained with Axis Bank, despite the bank not being impleaded as a party to the proceedings. According to the applicant, the impugned order was communicated to it by email on 17/10/2023. Since the bank had not been joined as a party before the Magistrate and had not been afforded any opportunity of hearing, the bank first sought internal legal opinion regarding the legality of the order and the appropriate remedy available in law. The applicant submits that considerable time was consumed in examining the proper legal course because, in another similar matter, a clarification application before the Magistrate was found to be impermissible in view of the statutory bar contained in Section 362 Cr.P.C. (now Section

403 BNSS). The applicant further states that additional time was consumed in obtaining certified copies of the relevant record and proceedings and in engaging a local advocate, since the concerned bank branch is situated at Rourkela, Odisha, outside the State of Gujarat. The applicant contends that the impugned order has been passed in violation of the principles of natural justice, as the bank, though directly affected by the direction issued by the Magistrate, was neither impleaded as a party nor afforded an opportunity of hearing. On the above grounds, the applicant prays that the delay of 442 days in filing the Criminal Revision Application be condoned in the interest of justice and that such other orders as may be deemed fit be passed.

2. The Ld. APP Mr. S. Rana for the State has submitted to pass appropriate order.
3. The respondent No. 2 has not appeared though being served.
4. I have heard the learned advocate appearing for the applicant-bank and the learned Assistant Public Prosecutor for the State. Though respondent No.2 has been duly served, none has chosen to appear on his behalf to oppose the present application. I have also carefully perused the application, the affidavit in support thereof and the documents placed on record. The present application seeks condonation of a delay of 442 days in preferring the accompanying Criminal Revision Application under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The

explanation furnished by the applicant discloses that the impugned order was admittedly passed against the applicant-bank without impleading it as a party to the proceedings and without affording any opportunity of hearing. It is the specific case of the applicant that only upon receipt of the copy of the impugned order through email on 17/10/2023 did the bank become aware of the directions issued against it. The explanation further reveals that the applicant-bank, being a corporate body functioning through its internal administrative and legal hierarchy, was required to obtain legal opinion regarding the legality of the order as well as the appropriate statutory remedy available. The applicant has also explained that further time was consumed in obtaining certified copies of the proceedings and engaging a local advocate, since the concerned branch is situated in the State of Odisha. It is a settled principle of law that while considering an application for condonation of delay, the Court is required to adopt a pragmatic, justice-oriented and liberal approach where sufficient cause has been shown, provided that the delay is neither deliberate nor actuated by malafides. The expression "sufficient cause" employed in the law of limitation is required to receive a liberal construction so as to advance substantial justice, particularly where refusal to condone the delay would result in shutting out adjudication on merits. At the same time, the Court is required to balance the equities and ensure that negligence or inaction is not encouraged. In the present

case, this Court finds that the applicant has assigned a plausible and satisfactory explanation covering the period of delay. The circumstances narrated in the application indicate that the delay has occurred on account of bonafide pursuit of the appropriate legal remedy and internal decision-making process rather than deliberate negligence or intentional inaction. Significantly, the applicant seeks to challenge an order which is alleged to have been passed against it without impleading it as a party or granting an opportunity of hearing. Such contention undoubtedly raises an arguable issue touching the principles of natural justice, which deserves examination on merits rather than being rejected on the technical ground of limitation. Having regard to the totality of the facts and circumstances, this Court is of the considered opinion that sufficient cause has been made out for condonation of the delay. Nevertheless, considering that the delay is of 442 days, which is substantial, this Court is of the view that the ends of justice would be adequately served by compensating the delay through imposition of reasonable costs. Such imposition of costs would balance the equities between the parties while simultaneously ensuring that a litigant having an arguable case is not denied an opportunity of adjudication on merits. Accordingly, the present application deserves to be allowed subject to payment of costs of Rs.5,000/- (Rupees Five Thousand only) to the Taluka Legal Services Authority (TLSA), Gandhidham. Hence, in the interest of justice, the following

order is passed :

:: O R D E R ::

- (1) The present application being Cri.M.A. No. 117/2025 is hereby Allowed.
- (2) The delay of 442 (Four Hundred Forty Two) days caused in filing the accompanying Criminal Revision Application against the order dated 18/09/2023 passed by the Ld. Additional Chief Judicial Magistrate, Gandhidham in CRMA No. 1281/2023 below Exh: 1 is condoned subject to the applicant shall pay costs of Rs.5,000/- (Rupees Five Thousand only) to cost fund of DLSA, Kachchh through TLSC, Gandhidham within two weeks from the date of this order. The payment of costs shall be a condition precedent for prosecuting the accompanying Criminal Revision Application.
- (3) Upon compliance with the aforesaid condition, the office shall register the accompanying Criminal Revision Application, if otherwise found to be in order, and place the same before the Court for hearing on merits in accordance with law.
- (4) It is clarified that the observations made in this order are confined only to the adjudication of the present application seeking condonation of delay. They shall not be construed as an expression of opinion on the merits of the Criminal

Revision Application, which shall be decided independently and uninfluenced by any observations made herein.

Pronounced in Open Court today i.e. on 8th Day of **August,2026.**

Date: 08/08/2026
Gandhidham-Kachchh

(Rakesh J. Patel)
UID No.GJ 00833
6th Additional Sessions Judge,
Gandhidham.