

Cri. Misc. Appl. No.266 of 2026

Received on	05-03-2026
Registered on	05-03-2026
Decided on	09-03-2026
Duration	YY-MM-DD
	00 - 00 - 04

**BEFORE THE COURT OF SESSIONS JUDGE,
AT : MAHESANA.
CRIMINAL MISC. APPLICATION NO.266 OF 2026**

EXH. 05

APPLICANT :-

Harshadkumar Prahladbhai Chauhan

Aged about 27 years, Occu:- Driving,
R/o. At Meloj, Tal. Siddhpur, Dist. Patan.
(Currently in District Jail, Mahesana)

Versus

OPPONENTS :-

- 1. The State of Gujarat**
- 2. Kogta Financial (India) Ltd. through its Executive
Shri. Abdulquadir Khan R. Pathan.
Kogta Financial (India) Ltd. Mahesana.**

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Mr. R.K. Chauhan, Ld. advocate for the applicant.

Mr. S.R. Patel, Ld. A.P.P. for the opponent No.1-State.

Mr. J.P. Trivedi, Ld. advocate for the opponent No.2.

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Subject:- Application under Section 5 of The**Limitation Act for condonation of delay.****JUDGMENT**

1. The applicant has preferred present application for condonation of delay of 95 days occurred in preferring Criminal Appeal against the judgment and order dated 03.11.2025 passed by learned 7th Additional Judicial Magistrate First Class, Mahesana in Criminal Case No.7005 of 2025, on the grounds and facts as stated in the application.
2. Learned Advocate for the applicant has submitted that the Ld. Trial Court has passed an ex parte order against the applicant and since the applicant was involved in the business of driving, so applicant has to go out frequently for driving purposes and therefore, due to the above reasons, the appeal couldn't be filed within the period of limitation. Thus, delay of 95 days occurred in preferring the appeal. The delay is a bona-fide delay. There is no mala-fide intention on the part of the applicant, and therefore, it is prayed to condone the delay in the interest of justice.
3. Notice / Summons duly served to the opponents. Despite of service of notice to the opponent No.2, the opponent No.2 has not filed his Written Statement / Objection to the present application. Moreover, learned Addl. Public Prosecutor appeared on behalf of opponent No.1- State has not resisted the present application.

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4. Heard oral arguments canvassed by learned Advocate for the applicant as well as learned Advocate for opponent No.2. As per the application, there is a delay of 95 days occurred in preferring the Appeal. However, applicant has not given any sound and convincing reason for the delay occurred in preferring the appeal, and therefore, cost is required to be imposed on applicant. It is well settled principle of law that the Court shall decide all the issues as far as possible purely on merits. The Court should not go technically and the approach of the Court should not be hyper technical so as to dispose of the matter without touching the merits and hence the Court should give sufficient opportunities to all the contesting parties to fight their case on merits and hence, I deem it just and proper to allow this application and condoning the delay with reasonable cost and also consider the right of appeal and hence pass the following final order in the interest of justice.

ORDER

- Present Criminal Misc. Application No.266 of 2026 is hereby allowed subject to deposit amount of cost of **Rs.3,500/- (Rupees Three Thousand Five Hundred only)** by the applicant - accused to the orig. complainant - opponent No.2.
- Delay of 95 days occurred in preferring the Criminal Appeal against the judgment and order

Cri. Misc. Appl. No.266 of 2026 dated 03.11.2025 passed by learned 7th Additional Judicial Magistrate First Class, Mahesana in Criminal Case No.7005 of 2025 is hereby condoned.

- The Registry is directed herewith to register the original Appeal preferred along with this application after due verification.

Order pronounced in open Court on 09th day of March, 2026 at Mahesana.

Date:09/03/2026

Place:Mahesana

(Ambrish Laljibhai Vyas)

Sessions Judge

Mahesana

UIC No.GJ00508