

GJSK010013112026 	Admitted on	19	05	2026
	Decided on	01	08	2026
		Days	Months	Years
	Duration			

In the Court of Sessions Judge, Himmatnagar.

Dist: Sabarkantha

Cri. MA No. 553/2026

Exh. No.....

Applicant : **Atulkumar Savjibhai Tirgar**
Age : About 35 years,
Occupation: Service,
Resident At:- Shaktinagar, Deshotar,
Po.: Jashvantgadh, Taluka:Idar,
District-Himmatnagar.

Versus

Opponent : 1. Vardan Finlease, Himmatnagar
Through its Authorized Officer

2. The State of Gujarat,
Notice through the P.P.
P.P. Office, Himmatnagar,
District-Himmatnagar.

Appearance: Applicant side - Ld. Advocate Shri. R. C. Zala
Oppo. side No. 1 - Ld. Advocate Shri. N. R. Meer
Oppo. side No. 2- Ld. P.P Shri. H. V. Trivedi

J U D G M E N T

1... The present application has been instituted by the applicant for the condonation of delay of 345 days for preferring Criminal Appeal. It is the case of the applicant that the respondent/s filed Criminal Case No. 3068/2024, against him in the Court of Id. 4th Add. JMFC, Himmatnagar against the present applicant. The applicant accused was convicted in the above referred case on 09/05/2025 by Id. trial court.

Being dissatisfied and aggrieved with the above referred order, the applicant wants to prefer the Appeal, but there is the delay and the reasons for the same delay are such that;

The applicant had gone out of station for labour work, was ignorant of dates of hearing in the trial court, was ignorant of impugned order as well as legal provisions and as a result, he could not approach this court in time and the delay has been caused in obtaining necessary certified copies and proper legal advise, and there is the delay but the same was unintentional, so he was not aware of the judgment etc. and the court should not be too technical. The court should be generous to condone the delay.

So, the delay has been caused due to aforesaid reasons and the same is prayed to be condoned.

2... The opponent complainant has been heard and raising a strong objection against condonation of the delay, he has submitted that the delay being considerably in longer range, the present application is required to be dismissed.

3.. I have given my thoughtful consideration to the submissions made by Id. advocates for applicant as well as the

respondent/s.

4... In this matter, case of N. Balkrishnan V/s M Krishnamurthy, reported in AIR 1998 S.C 3222 is required to be considered, wherein it is held that :-

"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 trial 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.”

5... Looking to the grounds set forth by the present applicant, there is no reason to disbelieve the grounds set forth by the applicant for condonation of delay. The doctrine must be applied in a rational common sense and in a 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 of delay 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.

Hence, a doubt can't be casted upon the cause shown by the applicant side. Moreover, at this stage, it is not required to go into the merits of the case, intended to be restored.

6... This Court has given a thoughtful consideration to

the submissions advanced on the both the sides, in this regard. The grounds set forth in the application appear to be genuine, there appears a sufficient cause for condonation and considering the fact that there is a delay but the reasons set forth, can be treated as proper ground. 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 present case/application 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 the delay as prayed for, deserves to be condoned and the applicant be provided with an opportunity to contest the appeal on merits.

7... Hence, considering the peculiar facts of the case of the applicant and more particularly the fact that the applicant has been in custody since long, the following final order is hereby passed in the interest of justice.

ORDER

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

Read & Pronounced in the open court.

Date : 01/08/2026
Himmatnagar.
mbr

M.N. Shaikh. (GJ00611),
I/c. Sessions Judge, Himmatnagar, Dist: S.K.