

ORDER BELOW EXH.1 APPLICATION FOR DELAY CONDONATION

1. The Applicant / Original Complainant has preferred the present application under the proviso to Section 142(1)(b) of the Negotiable Instruments Act, 1881, seeking condonation of a short delay of 5 days in presenting the accompanying complaint under Section 138 of the Act.
2. According to the memo of the application, the statutory demand notice was served on the Opponent on **30/12/2024**. The mandatory 15-day payment period expired on **14/01/2025**, and then the cause of action to file the present complaint arose, and statutory period of one month to present the complaint expired on **14/02/2025**. The complaint was presented before this Court on **19/02/2025**. Thus, there is an explicit delay of 5 days in filing the complaint.
3. Heard the learned advocate for the Applicant Mr. N.G. Khanjada, at the pre-cognizance stage. The learned advocate submits that the Applicant fell, preventing him from contacting his advocate, so that he could not file the complaint within limitation period and 5 days delay is caused, which was unintentional, and lacks any mala fide intent.
4. Since this application is being considered prior to taking cognizance of the offense u/s 138 of the NI Act, and before the issuance of process under Section Section 225 of the BNSS, no notice was issued to the proposed accused, and the matter is heard ex-parte.
5. The main question for consideration is whether the oral/written assertion of sickness, unaccompanied by a formal medical certificate, can be deemed "sufficient cause" under Section 142(1)(b) of the Act for a brief period of 5 days.
6. It is a well-settled judicial position that "sufficient cause" must be construed in a meaningful manner to subserve the ends of justice. When a delay is institutional or lengthy, strict documentary proof like a medical certificate is indispensable. However, when the delay is a minor fraction of time, such as 5 days, the Court can accept the personal statement of illness made on oath/assertion in the application, unless there are apparent grounds on the face of the record to suspect fraud or deliberate stagnation.

7. In the present case, the Complainant has pursued the initial steps, such as sending the statutory notice within time diligently, a minor delay of 5 days immediately following the expiration of the notice window support his assertion of physical illness. Refusing to condone this minor delay on the sole technical ground of a missing medical certificate would lead to an uncalled-for dismissal of a financial claim at the threshold, causing grave injustice to the Complainant. On the other hand, condoning the delay merely opens the door for a trial on merits, where the proposed accused will have ample opportunity to raise all statutory defenses.
8. Therefore, taking a realistic and justice-oriented view, this Court finds that the statement of illness constitutes sufficient cause for the minor delay of 5 days. The present application, therefore, deserves to be allowed.

FINAL ORDER

- The Present Criminal Miscellaneous Application is hereby allowed.
- The delay of 5 days in filing the complaint under Section 138 of the Negotiable Instruments Act, 1881, is hereby condoned.
- Accordingly, this Cr. M. A. is order to be disposed of and the complaint made under sec. 138 of N. I Act ordered to be registered and numbered as criminal case and summons to be issued returnable on date 20/07/2026.

Pronounced in the open Court on this 23rd Day of June, 2026.

(Sanjay Choudhary)

Judicial Magistrate First Class,

Desar, Vadodara.

UID- GJ01581