

Criminal Appeal No. 04 of 2026
C.N.R. No. WBJP01-001040-2026

Order No. 05, dated – 02.06.2026.

Today is fixed for SR. AD and hearing on the point of admission.

Hazira has been filed on behalf of the appellant through his Ld. Advocate.

None appears on behalf of the respondents Nos. 1 & 2 and also the respondent No.3/ State of West Bengal.

However, upon perusal of the record, it appears that copy of Memo of Appeal along with stay application has already been served upon the State of West Bengal and the same has been duly received.

Upon perusal of the service return along with postal track report as submitted on behalf of the appellant, it appears that notice has been duly served upon the respondents Nos.1 & 2. However, none appears on behalf of respondents Nos.1 & 2 and also on behalf of State of West Bengal.

However, the matter is taken up for hearing on the point of limitation as well as admission of the present Appeal.

Upon perusal of the record and after going through the office report and endorsement on the back side of the cause title of the Memo of Appeal, it appears to this court that the Appeal has been duly stamped but not within time and hence, an application under Sec.5 of the Limitation Act has been filed on behalf of the Appellant.

Let this application for condonation of limitation period is taken up for hearing.

It is a case of the Appellant that there is a delay in preferring the appeal only 43 days due to lack of communication and the appellant has no knowledge about the impugned order which was passed on 27.01.2026 and he came to learn about the order impugned after receiving summons of Misc Execution case 10/2026. Moreover the delay as caused in filing the appeal is not at all intentional and the reasons as set forth is satisfactory and reasonable and sufficient and considering the merit in Appeal, delay may be condoned by allowing the application under sec.5 of the Limitation Act.

None appears on behalf of any of the respondents to oppose this application in spite of receiving notice of Memo of Appeal along with copy of other applications.

Upon perusal of the application under sec.5 of the Limitation Act for condonation of delay as filed on behalf of the appellant and after going through the record and considering the submission of the Ld. Advocate appearing on behalf of the Appellant, it appears to this court there was delay in preferring the Appeal for only 43 days and there is no deliberate laches and negligence on the part of the appellant causing delay in filing the appeal. However, it is the view of this Court that day to day explanation is not required in case of filing of application for condonation of delay though day to day explanation is not required but the same must be reasonably explained with sufficient cause in this application. However, causes and reasons as shown in the present application appear to be sufficient. In view of that, considering the merit in Appeal, this court is inclined to condone the delay in preferring the Appeal.

Accordingly, the application under sec.5 of the Limitation Act is allowed and disposed of.

Delay in preferring the Appeal is hereby condoned.

Appeal is admitted.

Next date be fixed for further appearance of the respondents. And hearing of the Criminal Appeal along with stay application.

Fix 24.06.2026 for further appearance of the respondents. And hearing of the Criminal Appeal along with stay application.

Dictated & Corrected by me

Sessions Judge, Jalpaiguri
(WB01135)

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