

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR CONDONATION OF DELAY) NO.
5468 of 2026****In F/CRIMINAL APPEAL/4583/2026**

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STATE OF GUJARAT

Versus

DAYALJIBHAI DEVSHIBHAI CHOTHANI

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Appearance:

MS ASMITA PATEL, LD. ADDITIONAL PUBLIC PROSECUTOR for the

Applicant(s) No. 1

MR YUVRAJSINH CHAUHAN, LD. ADVOCATE FOR MR VH KANARA(1881)

for the Respondent(s).

NISHITH P ACHARYA(9308) for the Respondent(s).

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CORAM:HONOURABLE MR. JUSTICE VIMAL K. VYAS**Date : 08/06/2026****ORAL ORDER**

1. RULE. Learned advocate Mr.Yuvrajsinh Chauhan appearing for Mr.V.H.Kanara waives service of notice of rule for and on behalf of the respondent.

2. The applicant- convict has filed the present application under Section 5 of the Limitation Act for condonation of delay of 123 days caused in filing the captioned Criminal Appeal.

3. Learned advocate Mr.Yuvrajsinh Chauhan appearing for the respondent has opposed the present application.

4. Having considered the submissions advanced by the respective parties and having gone through the averments made in the application, it appears that the delay caused in preferring

the appeal has been sufficiently explained. As it is settled that in case of delay, the cause is material and not the length of delay, I am inclined to allow the present application and to condone the delay.

5. It is needless to mention that the primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. Rule of limitation is not meant to destroy the rights of the parties. The Court is aware of the fact that if delay is not condoned, it would amount to dismissal of the appeal at the threshold and there is no presumption that the delay caused by the appellant is deliberate. In view thereof, the words 'sufficient cause' under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice. Even, the reasons stated appear to be bonafide and genuine. There is no smack of malafide or dilatory tactics on the part of the applicant.

6. In view of the above, the application is allowed. The delay of 123 days caused in preferring the appeal is hereby condoned. Rule made absolute.

(VIMAL K. VYAS, J)

DIPTI PATEL