

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR CONDONATION OF DELAY) NO.
8530 of 2025****In F/CRIMINAL MISC.APPLICATION NO. 15769 of 2025**

=====

DHANABHAI CHAMANBHAI VALMIKI**Versus****STATE OF GUJARAT**

=====

Appearance:**MR. MH SHEKHAWAT(7194) for the Applicant(s) No. 1****MR. TIRTHRAJ PANDYA, APP for the Respondent(s) No. 1**

=====

CORAM:HONOURABLE MR. JUSTICE VIMAL K. VYAS**Date : 05/05/2025****ORAL ORDER**

1. RULE. learned APP Mr. Tirthraj Pandya waives service of notice of rule for and on behalf of the respondent - State.

2. The applicant-convict has filed the present application under Section 5 of the Limitation Act for condonation of delay of 110 days caused in filing the restoration application.

3. Heard learned advocates appearing for the respective parties.

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 restoration application has been sufficiently explained. The

delay not being inordinate and since the applicant is assailing his conviction and 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 restoration application the threshold and there is no presumption that the delay caused by the applicant 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 110 days caused in preferring the restoration application is hereby condoned. Rule made absolute.

(VIMAL K. VYAS, J)

AMAR SINGH

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AMAR SINGH(HC01081), PRIVATE SECRETARY, at High Court of Gujarat on 05/05/2025 15:28:58