

Cr. Appeal (SJ) No.340 of 2025

1. Binod Vishwakarma,
2. Vivek Vishwakarma,
3. Asraf Rahabar Ali @ Rahabar Quraishi**Appellants**
Versus

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellants : Mr. Manoj Kr. Sah, Advocate
For the State : Mr. Anup Pawan Topno, APP
For the Resp. No.2 : Mr. Hemant Kr. Shikarwar, Advocate

Order No.06/24th September 2025

I.A. No.4933 of 2025

I.A. No.4933 of 2025 has been filed on behalf of the appellant for condoning the delay of 343 days in filing this instant Criminal Appeal (SJ).

2. Heard learned counsel for the appellants and learned APP as well as learned counsel for the Respondent No.2.

3. Learned counsel for the appellants has submitted that the appellants were not aware of the summons and also issuance of bailable and non-bailable warrant of arrest and processes under Section 82 of Cr.P.C. It is submitted without service report of summons, bailable warrants were issued and without service report of bailable warrant, learned Court below had issued non-bailable warrant on 17.04.2023. Thereafter the process under Section 82 Cr.P.C has been issued without obtaining the service report of non-bailable warrant and hence, the delay of 343 days in filing this Criminal Appeal (SJ) may be condoned.

4. On the other hand, learned APP raised objection and submitted that proper explanation has not been furnished by the appellant in I.A. No.13236 of 2025.

5. Learned counsel for the Informant, after adopting the

submission of learned APP, has further submitted that I.A. No.13236 of 2025 is devoid of merit. It is submitted that the appellants have not given any proper explanation and any specific date for having knowledge on issuance of summons, warrant and processes under Section 82 of Cr.P.C. and this I.A. No.13236 of 2025 is vague one and hence this I.A. No.13236 of 2025 may be rejected.

6. Having heard learned counsel for both the sides and it appears that the learned counsel for the appellants has earlier withdrawn I.A. No. 4935 of 2025 which was also filed for condoning the delay with liberty to file fresh Interlocutory Application vide order dated 06.08.2025 before this Court. Thereafter, this instant I.A. No.13236 of 2025 has been filed.

7. It appears that although the delay has not been satisfactorily explained by the appellant.

However, considering the facts that without obtaining the Service Report of summons, service report of bailable warrant and service report of non-bailable warrant, learned Trial Court has issued processes under Section 82 of Cr.P.C on 16.10.2023 against the appellant and also taking lenient view, the delay of 343 days in filing the instant Criminal Appeal (SJ) is, hereby, condoned subject to the payment of cost of Rs.1500/- to the Informant which may be deposited before the learned Court below within fifteen (15) days from today and which may be handed over to the Informant by the learned Court below by filing proper application.

8. Thus, I.A. No.4933 of 2025 is allowed and stands disposed of.

Cr.A.(SJ) No.340 of 2025

9. Put up this case after four weeks.

(Sanjay Prasad, J.)

Dated 24.09.2025

Nishant/-