

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Crml Leave To Appeal No. 335/2024

State Of Rajasthan, Through Pp

----Appellant

Versus

Bhika Ram S/o Shri Achla Ram, Aged About 32 Years, R/o Jakha
Nagar Sumerpur Dist Pali Rajasthan Permanent Resident Of
Girali Sadri Dist. Pali Rajasthan

----Respondent

For Appellant(s)	:	Mr. N.S. Chandawat, DyGA
For Respondent(s)	:	None present

HON'BLE MR. JUSTICE FARJAND ALI

Order

24/02/2026

1. Notices are duly served upon the respondent and learned counsel Mr. A.D. Ujjwal has filed Vakalatnama on his behalf. However, he is not present in the court today to argue the matter.
2. The instant criminal leave to appeal under Section 378(3) of the Code of Criminal Procedure, 1973 has been filed by the State seeking leave to prefer appeal against the judgment dated 05.04.2023 passed by the learned Special Judge, Protection of Children from Sexual Offences Act, 2012 No.2, Pali in Sessions Case No. 83/2022, whereby the accused-respondent came to be acquitted of the offences alleged against him.
3. The leave to appeal application is reported to be barred by limitation by 335 days. Along with the leave petition, the State has

preferred an application under Section 5 of the Limitation Act seeking condonation of delay.

4. Heard on the application under Section 5 of the Limitation Act and the material placed on record has been perused.

5. The explanation furnished in the application reveals that the impugned judgment was delivered on 05.04.2023. The certified copy was applied for and made ready on 12.04.2023 and the same was received on 26.04.2023. Thereafter, the learned Special Public Prosecutor, POCSO Court No.2, Pali, after examining the impugned judgment and the record of the case, forwarded the matter along with his legal opinion to the District Collector, Pali vide letter dated 11.05.2023 for appropriate action.

6. It is further averred that the District Collector, Pali, upon consideration of the material available on record and the legal opinion forwarded, transmitted the case record to the Law Department, Jaipur vide communication dated 27.10.2023 for necessary decision. The matter was processed at various administrative levels in the Law Department and, upon due consideration, a sanction letter dated 24.04.2024 for filing appeal against the impugned judgment was issued. The sanction was received in the Office of the Government Advocate, Jodhpur on 14.05.2024 and the matter was thereafter entrusted to the Public Prosecutor for drafting of the leave to appeal and appeal.

7. It is stated that after examining the entire record, the Public Prosecutor drafted the leave to appeal and appeal along with the application under Section 5 of the Limitation Act on 31.05.2024.

The documents were typed and handed over for e-filing. However, due to technical issues relating to network connectivity, the same came to be filed on 03.06.2024, resulting in delay in presentation before this Court.

8. The delay, as explained, thus occurred during the stages of obtaining certified copies, securing administrative approval from the competent authority, processing at different governmental levels, issuance of sanction and eventual filing after drafting. The State functions through an impersonal machinery and decisions relating to filing of appeals against acquittal necessarily undergo scrutiny at multiple levels. The record indicates that the matter was pursued in the normal course of official business and there is nothing to suggest deliberate inaction or mala fides.

9. While it is true that the delay is of 335 days and is substantial, it is equally settled that when the State seeks condonation, some latitude is permissible in view of the procedural formalities inherent in governmental functioning, provided that the explanation does not disclose negligence or lack of bona fides. The object of Section 5 of the Limitation Act is to advance substantial justice and not to defeat it on technical grounds, particularly where the matter relates to an appeal against acquittal in a criminal case involving serious offences.

10. Upon consideration of the averments made in the application and the chronology placed on record, this Court is satisfied that the delay has been sufficiently explained and that the same was occasioned on account of procedural and administrative processes

rather than any deliberate or intentional lapse. The cause shown appears to be bona fide.

11. Accordingly, the application under Section 5 of the Limitation Act deserves to be allowed. The delay of 335 days in filing the criminal leave to appeal stands condoned. The leave to appeal application shall be treated as having been filed within limitation.

12. Heard learned Public Prosecutor on the application seeking leave to appeal.

13. In a prosecution launched against the respondent for the commission of offences under the penal provisions as alleged in the charge-sheet, the learned trial court, after full-fledged trial, acquitted the accused respondent.

14. On a prima facie consideration of the reasons assigned in the impugned judgment of acquittal and the material available on record, this Court is of the view that arguable issues arise for consideration and the matter deserves re-examination in appellate jurisdiction. At this stage, without expressing any opinion on the merits of the case, it is considered appropriate to grant leave to the State to prefer an appeal against the judgment of acquittal.

15. Accordingly, the instant application seeking leave to appeal is allowed. Leave to appeal is granted. The memo of leave to appeal application shall be treated as a criminal appeal and be registered as such.

16. The appeal shall be listed for consideration on the point of admission.

17. The opportunity of hearing shall be provided to the respondent at the time of hearing on the point of admission of appeal.

18. Office to proceed.

(FARJAND ALI),J

57-Pramod/-