

No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	26.08.2025		<p>IA No.2/2025 In CRLA No.459 of 2025 <u>Hon'ble G. Narendar, C.J.</u> <u>Hon'ble Subhash Upadhyay, J.</u></p> <p>Mr. Susheel Kumar, learned counsel holding brief of Mr. Gaurav Singh, learned counsel for the appellants.</p> <p>2. Mr. J.S. Virk, learned Deputy Advocate General along with Mr. Rakesh Joshi, learned Brief Holder for the State.</p> <p>3. The application (I.A. No. 2 of 2025) is preferred to condone the delay of 01 day in preferring the instant criminal appeal.</p> <p>4. It is an indisputable fact that the appellants are undergoing incarceration pursuant to a judgment of conviction dated 30.05.2025 passed in Sessions Trial No. 01 of 2023.</p> <p>5. The issue regarding condonation of delay in appeals preferred by convicts has been dealt with by the Hon'ble Apex Court in Special Leave Petition (Criminal) No. 18045 of 2024, "Mahesh Singh Banzara vs. State of Madhya Pradesh", and the Hon'ble Apex Court has been pleased to observe in paragraph nos. 5, 6 & 7 as under :</p> <p><i>"5. Since the application seeking condonation of delay has been dismissed, the appeal against the judgment of conviction and sentence has attained finality. Consequently, the appellant has been deprived of his opportunity of assailing the said conviction as well as sentence.</i></p> <p><i>6. In Dilip S. Dahaukar v. Kotak Mahindra Co. Ltd., (2007) 6 SCC 528, this Court observed that an appeal is indisputably a statutory right and an offender who has been convicted is entitled to avail</i></p>

the right of appeal which is provided for under Section 374 of the Criminal Procedure Code. Right of Appeal from a judgment of conviction affecting the liberty of a person keeping in view the expansive definition of Article 21 is also a Fundamental Right. It was also observed in Rajendra v. State of Rajasthan, (1982) 3 SCC 382 (2), that where the appellant furnishes reasons for delay in filing an appeal, the court would not dismiss the appeal as time-barred without examining the reasons for the delay. Hence, in light of the above, it is evident that the right to appeal, particularly when it concerns the liberty of an individual, is a fundamental right under Article 21 of the Constitution. The High Court's order dismissing the appeal solely due to delay, without properly examining the reasons for the delay, therefore, warrants reconsideration. Hence, there is necessity of examining the reasons for delay in filing an appeal since the dismissal of the appeal based on mere technicalities, without a substantive assessment of the appellant's reasons, was erroneous.

7. In the circumstances, we find that the ends of justice would be subserved in the instant case if the impugned order dated 02.03.2023 is set aside. Consequently, the delay of 1637 days in filing the Criminal Appeal No.1001/2021 is condoned by allowing the application being I.A. No.3780/2021.”

6. In the light of the law laid down by the Hon'ble Apex Court, the delay of 01 day requires to be condoned, and is, accordingly, condoned.

7. List this case along with CRLA No.412 of 2025.

(Subhash Upadhyay,J.)
26.08.2025

(G. Narendar, C.J.)
26.08.2025

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