

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR CONDONATION OF DELAY)****NO. 2935 of 2025****In F/CRIMINAL REVISION APPLICATION NO. 1904 of 2025****HARISH NANAKRAM RUPANI PROP. JAMNA KARIYANA STORE****Versus****STATE OF GUJARAT & ANR.****Appearance:****MR DHRUV K DAVE(6928) for the Applicant(s) No. 1****MR DHARM K RAVAL(10689) for the Respondent(s) No. 2****MR PRANAV DHAGAT, APP for the Respondent(s) No. 1****CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR****Date : 19/03/2025****ORAL ORDER**

[1.0] This application is filed under Section 5 of the Limitation Act for condonation of delay of 255 days caused in filing the revision application challenging the judgment dated 31.01.2024 passed in Criminal Appeal No.371/2023.

[2.0] Learned advocate for the applicant has submitted that applicant is in custody since 24.12.2024 and he was unwell and has taken files to SSG Hospital and applicant has sought to challenge the conviction recorded by the learned Sessions Court and there was no any malafide intention on the part of the applicant as the learned pleader engaged by the applicant never represented him and he was also not aware of any outcome as his appeal was dismissed in January, 2024. When he learnt about the issuance of the warrant and it was executed then he is detained in custody and therefore, the delay has been caused in filing the revision application and the delay was caused purely due to circumstances beyond the control of the applicant and there was no malafide intention on the part of the applicant in filing the revision

application belatedly. Therefore, he has requested to condone the delay caused in filing the revision application.

[3.0] Refuting the submission made by the learned advocate for the applicant, learned APP for the respondent – State of Gujarat and learned advocate Mr. Dharm K. Raval appearing for respondent No.2 have opposed the present application on the ground that negligence on the part of the Advocate is not a ground to condone the delay. Applicant ought to have been vigilant about his right and herein, after execution of warrant, applicant is arrested. Earlier also, *ex parte* proceeding came to be initiated and then the matter was remanded and by adopting dilatory tactics on one or another pretext, applicant wants to prolong the litigation. Hence, they have requested to dismiss the present application more particularly considering the conduct on the part of the applicant.

[4.0] Considering the submissions made by the learned advocates for the respective parties, the applicant has mentioned sufficient cause for condonation of delay. The primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. Rules of limitation are not meant to destroy the rights of parties. The Court is aware of the fact that denial to condone the delay would mean to dismiss the revision at 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.

[5.0] In view of the above, the delay of 255 days as explained in the application is condoned. The application is accordingly allowed. Rule is made absolute accordingly.

**(HASMUKH D. SUTHAR, J.)**

*Ajay*

Original copy of this order has been signed by the Hon'ble Judge.  
Digitally signed by: AJAY CHANDRAN MENON(HC00939), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 19/03/2025 18:51:48