



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [APPA] NO. 726 OF 2025

IN

CRIMINAL APPEAL [STAMP] NO. 7129 OF 2025

State of Maharashtra

-- VERSUS --

Bhaurao Narayan Kinake

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. M.J. Khan, A.P.P. for the Applicant/State.

Mr. Atharva Manohar, Advocate for the Non-applicant.

CORAM : M.M. NERLIKAR, J.

DATE : AUGUST 17, 2026.

Heard.

2. The present application is filed for condonation of delay of 630 days in preferring the appeal against judgment of acquittal passed by the Special Judge and Assistant Sessions Judge, Yavatmal on 30/08/2023 in Special (ACB) Case No.01/2013.

3. The learned Assistant Public Prosecutor submits that the delay is neither deliberate nor intentional, however, due to administrative exigencies, the delay has been caused. The officers of the Anti-Corruption Bureau have been pursuing the matter for filing the appeal from pillar to post.

Initially, the Department of Law and Judiciary found the proposal to be unfit for preferring an appeal, however, thereafter, upon pursuation by the Anti-Corruption Bureau Department, and after reconsideration of the proposal, the Department of Law and Judiciary gave consent to file the appeal, and accordingly, appeal was preferred along with an application for condonation of delay before this Court. Considering the explanation tendered in the application, the application deserves to be allowed as though the delay is of 630 days, the same has been satisfactorily explained in the application, therefore, this Court can condone the delay. He further submits that there is merit in the appeal, since the appeal arises out of an acquittal in an Anti-Corruption case, and therefore, he submits that the delay may be condoned.

4. He further submits that the order of acquittal was passed by the learned Special Court on 30/08/2023 and the present application was filed on 19/08/2025. The applicant had applied for a certified copy on 04/09/2023, whereas it was received on 12/10/2023. The learned Special Public Prosecutor of the trial Court gave his opinion on 18/10/2023, and accordingly, the said opinion along with the entire proposal was submitted to the

Department of Law and Judiciary on 15/12/2023. Thereafter, on 05/01/2024, the Department of Law and Judiciary found the proposal to be unfit for preferring the appeal, and accordingly, the same was communicated to the Department of Anti-Corruption Bureau on 30/01/2024. Thereafter, the Police Inspector of the Anti-Corruption Bureau made a communication to the Special Public Prosecutor of the Sessions Court on 05/02/2024, stating that the Department of Law and Judiciary had declined to file the appeal before the High Court. The Special Public Prosecutor advised the Police Inspector to approach the Principal Secretary, Department of Law and Judiciary, Mumbai, on the very same day. Thereafter, a communication was made by the Additional Director General of the Anti-Corruption Bureau to the Additional Chief Secretary, Home Department, on 28/06/2024, stating that the Special Public Prosecutor had advised the Police Inspector to approach the Principal Secretary, Department of Law and Judiciary. Accordingly, he submits that the proposal was pursued at the higher level for filing the appeal. Thereafter, the Superintendent of Police, Anti-Corruption Bureau, vide communication dated 24/06/2025 which was received on 30/06/2025, directed the Deputy Superintendent of Police, Anti-Corruption Bureau to pursue the matter at the higher

level. Accordingly, the Deputy Superintendent of Police, Anti-Corruption Bureau, Yavatmal, made a communication to the Department of Law and Judiciary, Nagpur, requesting reconsideration of the proposal for filing the appeal vide communication dated 11/07/2025. The matter was reconsidered and, on 15/07/2025, the Department of Law and Judiciary issued a communication addressed to the Government Pleader's Office, High Court, Nagpur Bench, directing the filing of the appeal. Accordingly, the matter was allotted to the learned Assistant Public Prosecutor and, after going through the said proposal, the learned Assistant Public Prosecutor filed the appeal along with the application for condonation of delay. Therefore, the learned Assistant Public Prosecutor submits that sufficient cause and explanation have been given in the application and, in support of the said contention, various communications have also been placed on record. Therefore, he submits that, since the delay is neither intentional nor deliberate, but has occurred only due to administrative exigencies and not otherwise, the delay of 630 days in preferring the appeal may be condoned.

5. On the other hand, the learned counsel for the non-applicant, Mr. Mahonar, vehemently

opposes the application and submits that once the Department of Law and Judiciary had found the proposal for preferring appeal to be unfit, then such Department ought not to have reconsidered the same which shows that the Department of Law and Judiciary had not applied its mind before forwarding the proposal to the Government Pleader's Office, however, under the pressure of the Anti-Corruption Bureau Department, the proposal was forwarded, which can be gathered from the communication annexed at Annexure A-7, Page 20 of the paper book. He invited my attention to Note No. 3 of the said communication made with the Government Pleader's Office, High Court, Nagpur Bench which states that filing of appeal is at the risk, cost and consequences of Anti-Corruption Bureau (ABC), Yavatmal. He further submits that, without there being any scrutiny on merits, the proposal was forwarded mechanically and without application of mind. Even the delay has not been properly explained in the application. The learned Special Public Prosecutor of the trial Court had given his opinion on 18/10/2023, whereas the said proposal along with the opinion was received by the Department of Law and Judiciary after a period of two months, i.e., on 15/12/2023. There is a delay of two months which remains unexplained. Even thereafter, when the proposal was found to be unfit,

a further period of one month elapsed before a communication was made by the Police Inspector of the Anti-Corruption Bureau to the Special Public Prosecutor, informing him about the rejection of the proposal by the Department of Law and Judiciary. The said communication is dated 05/02/2024. Even there is no explanation for this period of one month. He further submits that more fatal is the communication made by the Additional Director General of the Anti-Corruption Bureau to the Additional Chief Secretary, Home Department, dated 28/06/2024, wherein it was stated that, on the advice of the Special Public Prosecutor, it was necessary to approach the Principal Secretary, Department of Law and Judiciary, at Mumbai. Thereafter, absolutely no steps were taken for nearly one year and it was only on 30/06/2025 that the Superintendent of Police, Anti-Corruption Bureau, issued a communication to the Deputy Superintendent of Police to pursue the matter at the higher level. However, instead of pursuing the matter at the higher level, the Deputy Superintendent of Police approached the Department of Law and Judiciary on 11/07/2025, requesting reconsideration of the proposal by the Department, and accordingly, a communication dated 15/07/2025 was made to the Office of the Government Pleader's, Nagpur, directing

the filing of the appeal. Considering the unexplained delay on the part of the State Authority, the delay cannot be condoned. The communications which have been made are between Departments and the same are not sufficient to condone the delay, as they are merely internal communications. He further submits that duration of delay is irrelevant, however, if sufficient cause and proper explanation are shown, then only the delay can be condoned. However, in the present case, there are several gaps in the communications also, and therefore, the reasons and explanation sought to be tendered before this Court cannot be accepted. It can be stated that the proposals were moved as per the whims and wishes of the officers. He further submits that in order to save the skin of their officers, the Anti-Corruption Bureau office are hell bent upon filing of the appeal in spite of the fact that their proposal was found to be unfit meaning thereby there is no merit in the matter. Under such circumstances, he submits that the delay may not be condoned. He has relied upon the judgment of the Supreme Court in the case of *Shivamma (Dead) -Versus- Karnataka Housing Board and Others, (2025) SCC OnLine SC 1969*.

6. I have heard the parties at length. The undisputed facts are as under:

The Special Court, by its order dated 30/08/2023, has acquitted the accused, the non-applicant herein, for the offences punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. Further, after passing of the said order, the Department applied for a certified copy on 04/09/2023, whereas the same was received on 12/10/2023. It further appears that the Special Public Prosecutor gave his opinion on 18/10/2023, whereas the Department of Law and Judiciary received the proposal on 15/12/2023. It further appears that, on 05/01/2024, the Department of Law and Judiciary found the proposal to be unfit for preferring an appeal before the High Court and, accordingly, the same was informed to the concerned Department. It further appears that, on 05/02/2024, the Police Inspector of the Anti-Corruption Bureau communicated the said facts to the Special Public Prosecutor of the Sessions Court, and accordingly, the Special Public Prosecutor advised the Police Inspector to approach the Principal Secretary, Department of Law and Judiciary, at Mumbai. Accordingly, on 28/06/2024, a communication was made by the Additional Director General of the Anti-Corruption Bureau to the Additional Chief Secretary, Home Department, informing him of the above facts and the advice given by the Special Public Prosecutor. It

further appears that, thereafter, for nearly one year, no efforts were made to file the appeal. However, after one year, i.e., on 30/06/2025, the Superintendent of Police, Anti-Corruption Bureau, communicated to the Deputy Superintendent of Police to pursue the matter with the Higher Authority and to keep track of the proposal. It further appears that, again, the Deputy Superintendent of Police approached the Department of Law and Judiciary by communication dated 11/07/2025 and requested reconsideration of the proposal. Accordingly, a communication was issued by the Department of Law and Judiciary, addressed to the Office of the Government Pleader's, Nagpur Bench, directing the filing of the appeal. Accordingly, on 19/08/2025, the appeal along with the application for condonation of delay was filed by the Office of the Government Pleader's, High Court, Nagpur Bench.

7. It is a cardinal principle of law that duration of delay is irrelevant, however, proper explanation should be tendered by the Authorities for condoning such delay. It is also necessary to show sufficient cause. The explanation should be genuine and not an imaginary explanation. The Supreme Court, in the case of *Shivamma (supra)*, has observed as under:-

“219. Which is why, as per the ratio of Postmaster General (supra) and a plethora of other subsequent decision, the ordinary approach of the courts, in cases where delay is sought to be condoned by offering the explanation of bureaucratic lethargy or red-tapism, must be one of circumspection and reluctance. The courts ought to loathe in accepting such explanations as "sufficient cause". They should apply their minds carefully, be slow in condoning delays on such reasons, and exceptional instances, where the explanation is found to be genuine, reflective of reasonable vigilance and promptitude in conduct, and free from gross negligence, deliberate inaction, lack of bona fides, or casual indifference, should such an explanation be accepted.

261. Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted with bona fides and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also equally suffer the bars of limitation from pursuing litigations due to its own lackadaisical attitude.

262. *The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law.*

263. *Limitation periods are prescribed to maintain a sweeping scope for the lis to attain for finality. More than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to contest the condonation of delay in appeal, unlike the present case, it reopens the lis for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice.*

264. *No litigant should be permitted to be*

so lethargic and apathetic, much less be permitted by the courts to misuse the process of law.”

The Supreme Court, in unequivocal terms, has held that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay and delays should not be condoned on frivolous and superficial grounds until a proper case of sufficient cause is made out. The High Court should remain extra cautious if the party seeking condonation of delay is a State authority. It is further held that the plight of a litigant with limited means has to be kept in mind who has to contest against an enormous State and its elaborate and never-ending paraphernalia.

Keeping in mind the above observations, the question before me is whether the State has shown sufficient cause and tendered a sufficient explanation for condonation of delay?

8. Perusal of the above chronology would depict that, admittedly, there is no explanation for a period of two months in the entire application, i.e., the Special Public Prosecutor gave his opinion on 18/10/2023, whereas the Department of Law and Judiciary received the said proposal on 15/12/2023. It is further to be noted that the Department of Law

and Judiciary found the proposal to be unfit for preferring an appeal, and the same was communicated on 05/01/2024. However, thereafter, for a period of one month, no one appears to have taken any steps, and it was only on 05/02/2024 that a communication was made by the Police Inspector of the Anti-Corruption Bureau to the Special Public Prosecutor, informing him about the said facts. Even thereafter no steps were taken for four months as directly on 28/06/2024 a communication was made by the Additional Director General of the Anti-Corruption Bureau to the Additional Chief Secretary, Home Department, to pursue the matter with the Principal Secretary, Department of Law and Judiciary. It is further to be noted that, apart from the above, interestingly, there is no explanation for a period of one year, i.e., from 28/06/2024 to 30/06/2025. Even this gap of one year is fatal to the State. There is absolutely no explanation for this period of one year, i.e., from 28/06/2024 till 30/06/2025 on which date a communication was received by the Deputy Superintendent of Police Anti-Corruption Bureau to pursue the matter at the higher level.

9. The another important aspect is regarding the reconsideration of the proposal by the Department of Law and Judiciary, particularly when

the earlier proposal submitted was found to be unfit for preferring an appeal. Under such circumstances, what had prompted the Department of Law and Judiciary to issue the communication dated 15/07/2025? Perusal of the communication dated 15/07/2025 would demonstrate that, in Note No. 3 of the said communication, it was written as under:-

“3. The Deputy Superintendent of Police (ACB), Yavatmal. He is informed that the instructions for filing of appeal is issued only at his department's risk, cost and consequences.”

This is very surprising. In fact, the Department of Law and Judiciary has been entrusted with a higher degree of responsibility. It is the said Department which is required to scrutinize the proposals which come before it for filing different proceedings before the higher Courts. Perusal of the communication dated 15/07/2025 issued by the Department of Law and Judiciary makes it clear that the said communication has been made without application of mind. It could be further gathered that, under the garb of reconsideration and without application of mind, the said communication was issued. It was expected from the Department of Law and Judiciary, which is under an obligation to give legal opinion and proper guidance to the other Departments touching upon the subject matters of

law, to act accordingly. However, in the present case, the Department has miserably failed to stand by its earlier firm opinion, wherein, at the earlier point of time, it had held that the proposal was unfit for filing an appeal. It appears that, under the pressure of the Department of Anti-Corruption Bureau, the communication was made to the Office of the Government Pleader's. It is further to be noted that, like an ordinary litigant, the State also stands on the same footing. On the contrary, a greater responsibility is cast upon the State. There is nothing on record to show that the proposal was reconsidered on merits and on the contrary, Note No.3 of the communication dated 15/07/2025 shows that it was issued at the risk, cost and consequences of Anti-Corruption Bureau, Yavatmal, meaning thereby Law and Judiciary Department has not scrutinized the proposal nor reconsidered it on merits, making it a frivolous appeal.

10. The learned counsel appearing for the non-applicant has also relied upon the judgment of the High Court of Andhra Pradesh at Hyderabad in the case of *The Public Prosecutor -Versus- Gaudavalli Bala Venkaiah and Others, 1987 SCC OnLine AP 49*, wherein Paragraph Nos. 4, 5, 6, and 7 read as under:-

“4. The contention of the learned Public Prosecutor is that the delay is neither wilful nor wanton, but the delay was occurred due to the re-consideration of the matter by the Government. While considering the application for condonation of delay, both the State and the accused stand on the same footing. The State cannot claim any preferential treatment on the ground that there was delay in re-consideration on that there was delay in passing order after reconsideration.

5. In this case when the papers were received by the Public Prosecutor, if she had filed an appeal, it would be in time. But the State at the first instance in its wisdom thought it fit not to file an appeal. Because the State has reconsidered the matter, it cannot be said that it is an additional or special ground to condone the delay. The court should not be lead away by the whims and fancies of the State for taking their decision at the earliest point of time not to prefer an appeal and at a subsequent stage to file the appeal.

6. Just like an ordinary litigant, the State also should make up its mind at the earliest point of time within the period prescribed for filing an appeal or revision. After the prescribed period of limitation the accused who has got the benefit of acquittal, has acquired a right and that right should not be taken away lightly on the mere averment or allegation that the Government has reconsidered their earlier decision to file the appeal.

7. The allegation that the delay in filing the appeal is neither wilful nor wanton, cannot be accepted, as it is evident from the facts disclosed in the petition itself that the State has got two minds at two different points of time Whether the

delay is neither wanton nor wilful, has to be considered with reference to the facts and circumstances that have been placed before the court. Certainly the delay in filing the appeal after reconsideration, though the original decision was in time, cannot be terms as neither wilful nor wanton, but it is a deliberate one.”

Even the Andhra Pradesh High Court at Hyderabad has held that reconsideration by the Department of Law and Judiciary cannot, by itself, be a ground for condonation of delay.

11. Considering the above facts and circumstances, I am not inclined to condone the delay of 630 days. In my opinion, the delay is inordinate and the State has failed to explain the same. The reasons assigned in the application are superficial and lack *bona fides*. The internal communications between departments is not sufficient to condone the delay. It is further to be noted that, despite the Department of Law and Judiciary having given its opinion that the proposal submitted by the Department was unfit for preferring an appeal before the High Court, the Authorities continued to pursue the matter. Thereafter, without there being any proper application of mind, the Department of Law and Judiciary directed the Office of the Government Pleader's to prefer an appeal. The

aforesaid action of directing to file frivolous appeal yielding to external influence has increased the pendency of this Court and is directly responsible for slowing down the delivery of justice. Such a practice requires to be deprecated. The Department of Law and Judiciary is expected to remain firm in its opinion and should not succumb to the pressure of any other Department. The Department, which is entrusted with the responsibility of scrutinizing such proposals and providing proper legal opinion, is expected to act independently and in accordance with law.

12. It is further to be noted that the Supreme Court, in the case of ***State of Madhya Pradesh and Others -Versus- Bherulal, (2020) 10 SCC 654***, came down heavily on the said practice and observed as under:-

“5. *A preposterous proposition is sought to be propounded that if there is some merit in the case, the period of delay is to be given a go-by. If a case is good on merits, it will succeed in any case. It is really a bar of limitation which can even shut out good cases. This does not, of course, take away the jurisdiction of the Court in an appropriate case to condone the delay.*

6. *We are also of the view that the aforesaid approach is being adopted in what we have categorised earlier as "certificate cases". The*

object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the officer concerned responsible for the same bears the consequences. The irony is that in none of the cases any action is taken against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straightaway the counsel appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation.

7. *We are thus, constrained to send a signal and we propose to do in all matters today, where there are such inordinate delays that the Government or State authorities coming before us must pay for wastage of judicial time which has its own value. Such costs can be recovered from the officers responsible.”*

Considering the above observations, the Supreme Court, in categorical terms, has held that filing proceedings before the higher Courts is sometimes undertaken merely to complete the

formality and to save the officers who may be at fault, and that such a process is followed for that purpose. Therefore, the Supreme Court has accordingly deprecated such practice and imposed costs of Rs.25,000/- upon the State.

13. It appears that, in the present case also, despite the fact that the proposal was initially found to be unfit by the Department of Law and Judiciary, the officers of the Anti-Corruption Bureau were hell bent upon pursuing the matter before different authorities and, ultimately, succeeded in persuading the Department of Law and Judiciary. This fact itself is sufficient to conclude that an unfit proposal was subsequently made fit under the pressure of the Anti-Corruption Bureau Department. Under such circumstances, it is necessary to view such practices with serious concern, and therefore, the following order is passed:-

ORDER

(i) The Criminal Application [APPA] No.726/2025 is **rejected**, with costs of Rs.50,000/-;

(ii) The Department of Anti-Corruption Bureau, Yavatmal, shall deposit an amount of Rs.50,000/- (Rupees Fifty

Thousand only) in the Public Welfare Account maintained with the Union Bank of India, High Court Branch, Civil Lines, Nagpur, bearing Account No. 129712010001014 and IFSC Code No. UBIN0812978, within a period of four weeks and compliance report to be submitted before this Court;

(iii) The Registrar (Judicial) is directed to communicate this order to the Principal Secretary, Department of Law and Judiciary, Mantralaya, Mumbai.

[M.M. NERLIKAR, J]