

Present:

Mr. Justice Md. Shohrowardi

Criminal Revision No. 1093 of 2018

Md. Redwan Rahman Khan

...Convict-petitioner

-Versus-

The State

...Opposite party

Mr. Mohammad Samsuzzaman, Advocate with

Mr. Md. Saiful Malek Chowdhury, Advocate

...For the convict-petitioner

Mr. Md. Anichur Rahman Khan, D.A.G with

Mr. Sultan Mahmood Banna, A.A.G with

Mr. Mir Moniruzzaman, A.A.G

...For the State

Heard on 30.06.2025, 17.07.2025, 06.08.2025
and 13.08.2025

Judgment delivered on 19.08.2025

On an application filed under Section 439 read with Section 435 of the Code of Criminal Procedure Rule was issued calling upon the opposite party to show cause as to why the impugned judgment and order dated 17.04.2018 passed by Sessions Judge, Barishal in Criminal Appeal No. 183 of 2018 affirming the judgment and order of conviction and sentence dated 15.02.2018 passed by Metropolitan Magistrate, Trial Court No. 1, Barishal in Kotwali Model Police Station Case No. 45 dated 24.10.2014 corresponding G.R No. 619 of 2014 convicting the petitioner under table 9(Ka) of Section 19(1) of the মাদকদ্রব্য নিয়ন্ত্রণ আইন, ১৯৯০ and sentencing him thereunder to suffer imprisonment for 9(nine) months and fine of Tk. 3,000, in default, to suffer imprisonment for 1(one)month more should not be set aside and/or to pass such other or further order or orders as to this Court may seem fit and proper.

On perusal of the impugned judgment and order passed by the appellate Court revealed that the appellate Court refused to condone the delay of 7 days in filing the criminal appeal against the judgment

and order passed by the trial Court against which the convict-petitioner filed the instant appeal.

The appeal is a statutory right. It is a long line practice of the highest Court that an application under Section 5 of the Limitation Act should be disposed of with a lenient view. The convict-petitioner filed an application for condonation of the delay of 7 days, assigning a good reason. The appellate Court below passed the impugned judgment and order without rejecting the application for condonation of the delay of 7 days in filing the appeal, and thereby committed serious illegality in passing the impugned judgment and order.

I find merit in the Rule.

In the result, the Rule is made absolute.

The delay of 7 days in filing the criminal appeal before the Sessions Judge, Barishal is hereby condoned.

The Sessions Judge, Barishal is directed to restore the appeal in its original file and number and hear the appeal on merit.

Send down the lower Court's records at once.