

Present:

Mr. Justice Md. Shohrowardi

Criminal Rule No. 192 (Con-A) of 2023

Humayun Kabir

...Appellant-petitioner

-Versus-

The State and another

...Respondents

Mr. Niaz Morshed,

...For the appellant-petitioner

Mr. S.M. Golam Mostofa Tara, D.A.G with

Mr. A. Monnan, A.A.G

...For the State

Heard on 10.06.2024

Judgment delivered on 10.06.2024

This Rule under Section 5 of the Limitation Act, 1908 was issued calling upon the respondent to show cause as to why the delay of 1476 days in filing the criminal appeal against the judgment and order dated 30.05.2019 passed by Divisional Special Judge, Barishal in Special Case No. 14 of 2018 arising out of Kotowali Model Police Station Case No. 15 dated 06.08.2023 corresponding G.R. No. 473 of 2013 should not be condoned and/or pass such other order or further order or orders as to this Court may seem fit and proper.

Learned Advocate Mr Niaz Morshed having placed the application for condonation submits that the charge sheet was submitted on 30.04.2018 and the Divisional Special Judge, Barisal issued a warrant of arrest against the appellant on 14.11.2018 and fixed the next date for execution of the warrant of arrest of the accused but before sending the report from the concerned Police Station, the Divisional Special Judge, Barishal published the gazette notification and within next 6 months concluded the trial and passed the impugned judgment and order dated 30.05.2019 beyond the knowledge of the appellant-petitioner. In the above backdrop of the case, the appellant was not aware of the impugned judgment passed

against him for which it was delayed by 1476 days which is unintentional and bonafide. Therefore, he prayed to make the Rule absolute.

Learned Deputy Attorney General Mr. S.M. Golam Mostofa Tara appearing on behalf of the State submits that the appellant is a banker and FIR named accused and after lodgment of the FIR, he absconded and intentionally he did not appear in Court during the trial of the case. Therefore, he prayed for discharging the Rule.

I have considered the submission of the learned Advocate Mr. Niaz Morshed who appeared on behalf of the appellant-petitioner and the learned Deputy Attorney General Mr. S.M. Golam Mostofa Tara who appeared on behalf of the State, impugned judgment and order passed by the trial Court and the records.

The appellant-petitioner had given a reasonable explanation for the delay of 1476 days in the application. Therefore, I am inclined to condone the delay of 1476 days.

I find merit in the Rule.

In the result, the Rule is made absolute.

The delay of 1476 days in filing the criminal appeal against the impugned judgment and order passed by the trial Court is hereby condoned.

However, there will be no order as to costs.

The office is directed to do the needful.