

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:070480



(118)

CRR-1359-2025 (O&M)

Decided on : 23.05.2025

Ajay Kamboj

.....Petitioner(s)

Versus

State of Haryana & another

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE SANJAY VASHISTH

Present: Mr.Deepak Aggarwal, Advocate for the petitioner (s).

SANJAY VASHISTH, J. (Oral)

Petitioner-Ajay Kamboj has filed the instant revision petition challenging the order dated 12.05.2025 whereby his application for suspension of sentence has been dismissed primarily on the ground that the appeal had been filed after delay of a period of 1945 days (above 5 years) and same is yet to be admitted.

2. Counsel for the petitioner submits that the impugned order dated 12.05.2025 suffers from inherent error in it. While saying so, counsel relies upon judgment of the Apex Court passed in **State of Odisha Vs. Surendra Munda, 2020 (16) SCC 443** to submit that wherever there is an appeal by a convict, same cannot be dismissed on the ground of limitation.

3. In the case of Surendra Munda (supra), there was a delay of 1192 days in filing appeal before High Court and by setting-aside the said order, High Court was directed to re-decide the appeal on merit. For reference, the order passed by the Apex Court is reproduced hereunder:

“ ORDER

Application for permission to advance oral submissions is rejected.

2. There is delay of 255 days in preferring the Review Petition. In view of the explanation offered in the application seeking condonation, we condone the delay.

3. The original appellant before this Court was convicted for the offence punishable under [Section 302](#) IPC and was sentenced to suffer life imprisonment. The appeal preferred by him was dismissed by the High Court on the ground of delay of 1192 days in preferring the appeal. The matter was thus not considered on merits. That order was set aside by this Court and the matter was remitted to the High Court to consider the appeal on merits.

4. In a criminal matter, where the life and liberty of a person is in question, one right of appeal has always been accepted and appropriate steps must be taken to effectuate that right. The considerations on account of delay and limitation ought not to negate the right of appeal inhering in an accused.

5. In the circumstances, the order passed by the High Court was set aside and the matter was remitted. In the present Review Petition, the ground taken is as under:-

“4. That the State-petitioner believes that the view taken by this Hon’ble Court in the impugned judgment will have far reaching consequences on the outcome of other cases, and thus petitioner intends to review of the order passed by this Hon’ble Court.”

6. We do not find any merit in the submission so advanced. We, therefore, dismiss this Review Petition and affirm the Order under review.”

4. Notice of motion.

5. Mr.Kanwar Sanjeev Kumar, AAG, Haryana accepts notice on behalf of respondent No.1-State.

6. Petitioner also points out the finding recorded in para 11 of the judgment, whereby co-accused who was convicted by trial Court, has been acquitted by Appellate Court, by noticing defect in the complaint itself.

7. Heard.

8. By placing reliance upon order of Apex Court in Surendra Munda (supra) and also finding of acquittal already recorded qua co-accused, instant petition is disposed of by issuing direction hereafter:-

Lower Appellate Court is directed to decide the application(s) pending before it in view of the observations made by Hon'ble Apex Court and on the same day, decision with regard to admission and application for condonation of delay shall also be taken up.

9. Let the required exercise be completed within one week from today i.e. on or before 30.05.2025.

With the above observations, the present petition is disposed of.

Copy of order be forwarded for its compliance.

(SANJAY VASHISTH)
JUDGE

May 23, 2025

Sailesh

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| Whether speaking/reasoned : | Yes/No |
| Whether Reportable : | Yes/No |