

HIGH COURT OF SIKKIM

Record of Proceedings

Crl. A. No. 08/2018

SUSHIL SHARMA

Appellant (s)

VERSUS

State of Sikkim

Respondent (s)

Date: 06/04/2018

CORAM :

HON'BLE THE CHIEF JUSTICE

For Appellant (s) : Ms. Puja Lamichaney, Advocate.

For Respondent (s) : Mr. Thinlay Dorjee Bhutia, Addl. Public
Prosecutor with Mr. Santosh Kr. Chettri,
Assistant Public Prosecutor.

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IA No. 01/2018

This is an application seeking condonation delay of 57 days in filing the instant appeal.

The facts as narrated in the application are that the judgment convicting the appellant under provisions of Section 9 (b) and Section 14 of the Sikkim Anti Drugs Act, 2006 (for short, "SADA, 2006") and also under Section 20 (A) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "NDPS Act, 1985") was passed on 02.11.2017. The order sentencing the appellant therein was rendered on 07.11.2017. Thereafter, the appellant approached the Sikkim State Legal Services Authority. That, in turn, appointed the Advocate on 08.01.2018 to prepare the appeal and conduct the case. The relevant papers were, thereafter, handed over to the Advocate. The Advocate was advised a rest for a month till 18.02.2018 on account of cervical spondylitis. Some time was taken in collecting the certified copy of the entire case and also to prepare the case. Ultimately, the appeal along with an

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application for condonation of delay was filed on 27.02.2018. Thus, delay of 57 days is unintentional and bona fide. Learned counsel appearing for the appellant would further contend that the appellant is a poor person having no means to approach the Court in time, thus, the assistance of legal aid was obtained. The delay is not intentional and it was beyond the control of the appellant. Thus, in the interest of justice, delay be condoned.

In response, Mr. Thinlay Dorjee Bhutia, learned Addl. Public Prosecutor appearing for the respondent-prosecutor would contend that having regard to the reasons assigned by the appellant, the delay seems to be plausible and deserves consideration. The respondent has no objection to condonation of delay in the interest of justice.

Having examined all aspects of the matter, I am of the view that the delay deserves to be condoned and the appeal be heard on merit. Accordingly, the delay is condoned.

Admit.

Issue notice.

Mr. Thinlay Dorjee Bhutia, learned Addl. Public Prosecutor accepts notice on behalf of the State.

Requisition lower Court records.

Registry is directed to prepare the paper-book at the earliest.

List it for final disposal thereafter.

Chief Justice

06.04.2018