



2026:AHC:27813-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL APPEAL U/S 413 BNSS DEFECTIVE No. - 20 of 2026**

Mohammad Tarik

.....Appellant(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

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Counsel for Appellant(s)  
Counsel for Respondent(s)

: R.P.S. Chauhan  
: G.A.

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**Court No. - 43**

**HON'BLE SALIL KUMAR RAI, J.  
HON'BLE DR. AJAY KUMAR-II, J.**

The appeal is reported to be beyond time by 2165 days.

The present appeal has been filed against the judgement and order dated 16.12.2019 passed by the Additional Sessions Judge, Court No. 1, Allahabad acquitting the opposite parties in Sessions Trial Nos. 288 of 2012, 289 of 2012 and 290 of 2012 registered under Section 3/25 Arms Act which arose from Case Crime Nos. 6 of 2012, 7 of 2012 and 16 of 2012. Apart from the aforesaid, the opposite parties were also charged under Sections 147, 148, 302/149 I.P.C. and Section 7 Criminal Law Amendment Act in Sessions Trial No. 287 of 2012 which arose from Case Crime No. 524 of 2011. All the aforesaid sessions trial were connected and decided by judgement and order dated 16.12.2019.

By the judgement and order dated 16.12.2019, the opposite parties alongwith other accused in Sessions Trial No. 287 of 2012 were convicted for the offences

registered under Sections 147, 148, 302/149 I.P.C. and Section 7 Criminal Law Amendment Act and have been acquitted from the charge under Section 3/25 Arms act on the ground that the prosecution was not able to prove the recovery memo relating to the weapon allegedly used in the crime. However, on the evidence the trial convicted the opposite parties for the offences charged in Sessions Trial No. 287 of 2012.

The accused convicted in Sessions Trial No. 287 of 2012 filed Criminal Appeal No. 792 of 2020, Criminal Appeal No. 2845 of 2020, Criminal Appeal No. 5054 of 2021 and Criminal Appeal No. 806 of 2020. The aforesaid appeals have been connected and are being listed before a Co-ordinate Bench of this Court having the jurisdiction to hear the appeals filed against conviction orders. In the aforesaid appeals, the accused were granted bail by this Court.

It transpires from the argument of Shri R.P.S. Chauhan, counsel for the appellant in the present case, that the order granting bail to the accused/opposite parties was challenged before the Supreme Court. The Supreme Court rejected the challenge to the bail orders but expedited the hearing of the appeals.

Considering that the appeals filed by the accused/opposite parties under Section 415 B.N.S.S. were expedited for hearing by the Supreme Court, a Coordinate Bench of this Court proceeded to hear the

aforesaid appeals on merits.

Shri R.P.S. Chauhan, Advocate, also appeared in the said appeals on behalf of the first informant to oppose the appeals.

It appears from the observation of the Coordinate Bench that attempts were made by the counsel for the informant to stall the proceedings of the appeals filed against conviction. We are reproducing the observations of the Coordinate Bench of this Court in its order dated 02.02.2026 passed in Criminal Appeal No. 791 of 2020 connected with Criminal Appeal No. 792 of 2020, Criminal Appeal No. 2845 of 2020, Criminal Appeal No. 5054 of 2021 and Criminal Appeal No. 806 of 2020:-

"When the appeal now comes up, Mr. R.P.S. Chauhan, who appears for the informant, we are convinced, on instructions received from his client, **does not want the appeals to be heard**. He has moved an application for additional evidence after the appeals had already been heard for three days. We would have dealt with this application too, mindful of the matter that it is a Supreme Court expedited appeal, but Mr. Chauhan tells us now that the informant intends to appeal the impugned judgment passed by the learned Additional Sessions Judge dated 11.12.2019 to the extent it acquits the appellants of the charge under Section 3/25 Arms Act, on which the appellants were tried vide Sessions Trial Nos. 288 of 2012, 289 of 2012 and 290 of 2012. It is difficult to go ahead with the hearing of these appeals.

This is particularly so as this endeavour is not merely a proposal, but Mr. Chauhan tells us that a single appeal challenging judgment of acquittal in the three S.Ts. under Section 3/25 Arms Act has been filed in the Registry, which has not yet been allotted a number.

We are also mindful of the fact that the appeals against acquittal do not fall within our determination.

In the circumstances, let this matter along with the connected appeals be placed before His Lordship the Hon'ble The Chief Justice for appropriate orders at the

earliest."

(Emphasis supplied)

Today, the present appeal under Section 413 B.N.S.S. has been listed as a fresh case before this Court. The details indicate that the appeal was submitted for reporting on 31.01.2026 and was presented for filing on 03.02.2026. A delay condonation application has been filed praying to condone the delay of 2165 days in filing the appeal.

The affidavit filed in support of the delay condonation application states that Raees Ahmad who was doing pairvi of the case against the accused, has expired.

It be noted that Raees Ahmad is the informant in the case and the deceased, i.e., the person for whose murder the accused had been charged, was the son of Raees Ahmad. The present appellant is the brother of the deceased. The affidavit does not disclose the date of death of Raees Ahmad nor does it disclose whether the appeal before the Supreme Court challenging the bail orders was filed by Raees Ahmad or the present appellant. The present appeal is dealyed almost six years.

The affidavit is cryptic and has been irresponsibly drafted. The manner in which the affidavit has been drafted gives an impression that the appeal has been filed only to stall the proceedings and prevent the conclusion of the hearing of the appeals filed by the accused against the order of the trial court so far as it convicts them.

The affidavit does not satisfactorily explain the delay in filing the appeal. The affidavit states that the appellant has no knowledge of law and was wrongly advised by his counsel that the Court can exercise its powers under Section 386 Cr.P.C. in the criminal appeals filed by the accused and alter the acquittal of the accused by convicting them for the offence under Section 3/25 Arms Act. The explanation is preposterous. We are unable to believe that any such advise was given to the appellant by any Advocate practicing in this High Court or by any member of the Bar in the Supreme Court.

The appellant also states in his affidavit that he is a poor person and belongs to labour class indicating that for the said reason he could not arrange finances to file the present appeal. The said explanation is also not believable inasmuch as, as noted earlier, the appellant has contested the matter up till the Supreme Court challenging the bail orders passed by a Coordinate Bench of this Court enlarging the accused on bail.

The counsel for the appellant has argued that the appeal is strong on merits and in the interest of justice it is required that the appeal be admitted as the acquittal of the accused under Section 3/25 Arms Act would adversely affect the prosecution case and the conviction under the offence for which the accused had been charged in Sessions Trial No. 287 of 2012, i.e., the charges under Sections 147, 148, 302/149 I.P.C. and Section 7 Criminal

Law Amendment Act.

We make no observation on the same as the merits of the appeal are not relevant to decide the delay condonation application.

As the delay has not been satisfactorily explained in the affidavit, the delay condonation application is ***dismissed***. Consequently, the appeal stands rejected.

Consign to record.

February 9, 2026  
Anurag/-

(Dr. Ajay Kumar-II,J.) (Salil Kumar Rai,J.)