IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

CRIMINAL REVISION No.118 of 2026

(Under Section 438 & 442 of B.N.S.S.)

Kapil Manik --Revisionist

Versus

Sanjay Kumar --Respondent

Presence:-
Mr. Akshay Pradhan, learned counsel for the revisionist.
Mr. Bharat Singh, learned counsel for the respondent.

Hon'ble Siddhartha Sah, J. (oral)

By means of the present criminal revision filed under Sections 438 & 442 of BNSS, the revisionist has assailed the impugned judgment and order dated 09.02.2026 passed by the learned First Additional Sessions Judge, Roorkee, District Haridwar in Misc. Criminal Case No.132 of 2025 (Computer No. 142/2025), titled as "Kapil Manik vs. State of Uttarakhand & Anr.", whereby an appeal preferred against conviction under Section 138 of the Negotiable Instruments Act, 1881 (in short "the N.I. Act") was dismissed solely on the ground of delay.

2. The facts necessary for the adjudication of the present revision are that the respondent had filed a complaint under Section 138 of the N.I. Act on 05.01.2022, which was registered as Case No.427 of 2024. The trial court, vide

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judgment and order dated 15.07.2025, convicted and sentenced the appellant under Section 138 of the N.I. Act.

3. Aggrieved by the said judgment and order dated 15.07.2025, the revisionist preferred an appeal before the Sessions Court. Since the appeal was barred by time, it was accompanied by an application under Section 5 of the Limitation Act seeking condonation of delay, duly supported by medical documents explaining the delay.

4. The First Additional Sessions Judge, Roorkee, District Haridwar, vide impugned judgment and order dated 15.07.2025, rejected the application under Section 5 of the Limitation Act on the premise that the medical prescription in support of the application contained no advice for bed rest and the concerned certificate was dated 04.10.2025. Consequently, the appeal was dismissed.

5. Assailing the impugned order dated 09.02.2026, learned counsel for the revisionist would submit that there were sufficient grounds for condonation of the delay of 56 days. He would further submit that the delay was entirely due to the illness of the revisionist, which prevented him from filing the appeal within the prescribed limitation period, and that this was properly supported by medical documents.

6. The First Additional Sessions Judge, Roorkee, District Haridwar has proceeded to reject the application

under Section 5 of the Limitation Act on the premise that in the medical prescription in support of the delay condonation application, there is no advice for rest and the concerned certificate is dated 04.10.2025, in which from the earlier date till 04.10.2025, there is an advice for rest and the learned First Additional Sessions Judge, Roorkee, District Haridwar, came to the conclusion that the revisionist has not given a sufficient explanation for the delay and proceeded to reject the delay condonation application.

7. On the other hand, learned counsel for the respondent would submit that the medical document left an unexplained gap and the First Additional Sessions Judge is justified in rejecting the delay condonation application.

8. Heard the learned counsel for the parties and perused the record. It is clear that in the medical certificate dated 04.10.2025, it is apparent that the revisionist was advised bed rest from 02.08.2025 to 03.10.2025. The limitation period to prefer the appeal fell in between the said period, and the First Additional Sessions Judge, Roorkee, District Haridwar, having stated that the explanation for the delay is not sufficient, is thus found to be erroneous. Even otherwise a case has to be decided on its own merit, and doors of the justice may not be shut on mere technicalities. The delay, if any, can be compensated by due costs to the respondent.

9. In the present case, from the medical certificate dated 04.10.2025, it is clear that the revisionist was advised bed rest for the period 02.08.2025 to 03.10.2025 and from record, it is clear that the appeal had been filed before the First Additional Sessions Judge, Roorkee, District Haridwar on 08.10.2025. Therefore, the delay is not such a grave delay which could have persuaded the learned the First Additional Sessions Judge, Roorkee, District Haridwar to have rejected the delay condonation application. This Court finds that the delay condonation application could not have been rejected.

10. In view of the foregoing discussion, this Court is of the considered opinion that the learned First Additional Sessions Judge, Roorkee, District Haridwar, erred in rejecting the application seeking condonation of delay, particularly when the medical certificate on record substantiates the revisionist's inability to pursue the remedy of appeal within the prescribed period of limitation. The delay, in the facts and circumstances of the case, deserves to be condoned.

11. Accordingly, the impugned order dated 09.02.2026 is set-aside to the extent it rejects the delay condonation application bearing Application No. 3Ka. The said application thus stands allowed and the delay in filing the criminal appeal is hereby condoned and Misc. Criminal Case No.132 of 2025 is also allowed. Consequently, the criminal appeal of the appellant be registered by the learned First Additional

Sessions Judge, Roorkee, District Haridwar and be decided on its own merits, in accordance with law.

12. The present Criminal Revision is accordingly allowed in the aforesaid terms.

(Siddhartha Sah, J.)
12.10.2026

Akash