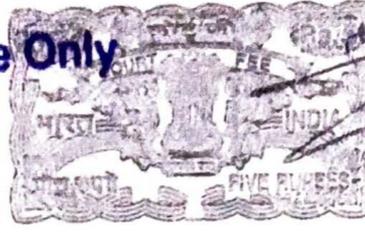


For Private Use Only

Exp. C. A. No. 7361/21

1



IN THE COURT OF HON'BLE ADD.CJM, NAGPUR

RCC No. 147/2002

Fh-3758

State of Maharashtra  
Versus  
Sunil Kedar and Others

APPLICATION ON BEHALF ACCUSED SEEKING  
10 DAYS TO APPROACH BOMBAY HC TO SEEK  
MODIFICATION IS IN ORDER DATED 24<sup>TH</sup> JUNE TO  
TRIAL ON A DAY TO DAY BASIS IN NAGPUR

The Accused No.3 name above most respectfully  
submit as under:-



1. The application is being filed to pray before this Hon Court to give the accused a time for 10 days to file a Petition before the Hon Bombay High Court seeking modification of its order dated 25.6.2021 wherein the Hon High Court has ordered that the Trial in Nagpur that the trial be completed in a period of four months and preferably on a day to day basis

2. The Hon Bombay High Court Order dated 24<sup>th</sup> June 2021 as follows

Point 71

71. Thus we dispose of all these matters by passing the following order :

(i) All Criminal Applications are dismissed with costs, subject to clarification as contained in paragraph 70.

(ii) We direct that the respective Trial Courts dealing with respective criminal cases as mentioned in para No. 1 to complete the trial of said cases expeditiously.

(ii) We direct that the trial in said C.C.No.147/2002 (Crime No.101/2002 registered with Ganesh Peth police station, Nagpur) be completed by passing final Judgment and Order within maximum period of four months from today. We make it clear that we are

Handwritten notes and signatures on the left side of the page, including 'Ad. ...', '15/12/2021', and '74192124'.

Day 01 APP

R/Sir.

This application is strongly opposed.

as the charge has framed & one witness examined.

More over this is needs to try & completed in 4 month after framing

charge here appln is deemed to be rejected.

Chhawalga  
15/12/25



granting maximum four months time in view of Covid-19 restrictions. With these directions although we are disposing of the PIL No.15/2020, however, we direct that the learned Presiding Officer dealing with said criminal case shall file monthly report of progress of trial of C.C.No.147 of 2002 to this Court.

(iii) "We make it clear that after completion of trial in said C.C.No.147/2002 (Crime No.101/2002 registered with Ganesh Peth police station, Nagpur) against other accused except the Applicant, the trial against Applicant be commenced by conducting the same expeditiously and preferably on day to day basis and the same be completed within a period of four months after commencement of trial against present Applicant.

3. IT MAY BE NOTED HERE , THAT LATER BY AN ORDER OF THE HON SUPREME COURT DATED 9.9.2022 , THE NAGPUR CASE WAS TRANSFERRED TO BOMBAY , TO COURT 47 , ESPLANDE MUMBAI.

Part of the Supreme Court Order as follows

"12. The contention of the State that prejudice will be caused if the transfer is allowed at such a belated stage when one of the criminal proceedings is at the final stage is bereft of merit. At 12 this juncture, it is apt to refer order dated 24.06.2021 passed by High Court of Judicature at Bombay in Criminal Application No. 628/2021 filed by accused Sanjay Hariram Agarwal seeking transfer of criminal cases pending against him.

The same is reproduced for ready reference as thus:

".....(ii) We direct that the trial in said C.C. No. 147/2002 (Crime No. 101/2002 registered with Ganesh Peth Police Station, Nagpur) be completed by passing final judgment and order within maximum period of four months from today. We make it clear that we are granting maximum four months' time in view of Covid19 restrictions....."

(iii) We make it clear that after completion of trial in said C.C. No. 147/2002 (Crime No. 101/2002



registered with Ganesh Peth Police Station, Nagpur) against other accused except the Applicant, the trial against Applicant be commenced by conducting the same expeditiously and preferably on daytoday basis and the same be completed within a period of four months after commencement of trial against present Applicant."

As is evident from the aforesaid order, the High Court directed completion of trial in C.C. No. 147/2002 in a time bound 13manner against other accused persons except the applicant i.e., Sanjay Hariram Agarwal (accused no. 3 in C.C. No. 147/2002). The High Court further directed that once the trial against other accused persons is completed, then only trial against applicant therein shall commence.

The High Court effectively split the trial of other accused persons from trial of Sanjay Hariram Agarwal and caused serious prejudice. As is gathered from the records and also stated above, accused Sanjay Hariram Agarwal alongwith petitioner herein were acting in the capacity of the Directors of accused company. The person who could have put the best defence (oral as well as documentary) before Trial Court where evidence led by prosecution was common and mostly related to same transaction, was effectively excluded by the order of High Court.



In my considered view, such an approach taken by High Court is prima facie amounts to differential treatment, causing serious prejudice to the right of fair trial of other accused persons including the petitioner herein.

13. In view of the foregoing discussion, considering the common nature of allegations raised against the petitioner in all 14 FIRs and criminal proceedings emanating therefrom which are yet pending before respective Trial Courts in four States, I am of the opinion that to meet the ends of justice and fair trial, the transfer petitions deserve to be allowed.

Therefore, the instant transfer petitions are disposed off with the following directions: a) b) c) The criminal cases, as specified in para 1 (clause (i) to (xvi)) of this order shall be transferred from the courts, where those are pending, to the court of Principal Judge, Bombay City Civil and Sessions Court, Fort, Mumbai 400032, Maharashtra; the Principal Judge is at liberty to assign the cases to any of the Court situated in his jurisdiction to try all those cases.

He is also at liberty to assign some of the cases to any other courts also, if necessary; it is further directed that the transferor courts shall immediately transmit the record of concerned cases to the Principal Judge, Bombay City Civil and Sessions Court, Fort, Mumbai - 400032, which should reach on or before 31.10.2022; 15d) all the accused in the concerned cases shall appear before the Principal Judge, Bombay City Civil and Sessions Court, Fort, Mumbai on 14.11.2022; e) on assignment of those cases to the concerned Court(s), as directed hereinabove, the said Court(s) shall frame the charges within a period of two months from the date of appearance, or on securing presence of the accused persons, if absent; and thereafter the trial be concluded as expeditiously as possible, not later than two years. It is needless to observe that the examination of the witnesses in all cases will be recorded by the Court(s) separately, thereby it should not cause any prejudice to any accused. "



4. Later the same year in October 2022 , the State of Maharashtra filed a Modification Application seeking the transfer of Nagpur trial to Nagpur and the Nagpur trial was put on STAY till the pronouncement in the Modification Application .

5. LATER BY ANOTHER ORDER OF THE HON SUPREME COURT IN THE MODIFICATION APPLCIATION FILED BY STATE OF MAHARASTRA , THE MODIFICATION PETITION

WAS ALLOWED AND THE NAGPUR CASE WAS TRANSFERRED BACK TO NAGPUR WITH THE FOLLOWING ORDER

POINT 21( II ) of the Order dated 4<sup>th</sup> Aug 2023 by the Hon Supreme Court

The transfer of R.C.C. No. 147/2002 by order dated 09.09.2022 passed in Transfer Petition (Criminal) Nos. 333348/2021 is restrained to the transferor Court with a clarification that the trial shall proceed from the stage of final arguments by the Presiding Officer uninfluenced by the directions in para 13(e) of order dated 09.09.2022.

III. Directions issued in para 13(e) in order dated 09.09.2022 be now read as under – “On receiving the cases as mentioned in para 13(a), the transferee Court shall proceed in those cases from the stage of the case in which it had received from the transferor Court(s). The cases in which charges have not been framed, it shall be framed within two months and the trial shall start immediately. In cases in which charges have already been framed and evidence has been started after submitting the trial program, those cases shall proceed from that stage of trial. Meaning thereby, denovo trial in such cases from stage of framing of charge is not required. The transferee Court(s) shall conclude all the trials as expeditiously as possible within a period of two years.”

6. Later on several occasion the Hon Supreme Court has passed judgements in other cases viz Osmanabad and Wardha where the accused is also facing trail . In these cases also the Supreme Court has Ordered that the Trial be conducted in a time bound manner

7. In Osmanabad Trial the Supreme Court passed the following order on 17.05.2025 which is as follows :

2. In the meanwhile, the Trial Court shall expedite the trial and make an endeavour to complete the trial in or before the month of November, 2025.

3. Registry is directed to communicate this Order to the concerned Court.

8. Despite the several Orders of the Hon High court and Hon Supreme Court for completion of the Trial in the above group of cases against the accused , none of the trial against the accused have been completed except one trial in Amravati where he has been acquitted .

9. Currently the trial are being conducted in multiple courts in a non synchronised matter. Due to multiple trials being conducted in several courts and the accused is not able to attend the trial in all cases simultaneously due to the issues as mentioned below .

i..In Mumbai , the accused is facing trial in 17 cases , out of which 13 cases have been made time bound as per the direction of the Hon Supreme Court . The Order of Hon Supreme Court mentioning the fixing of a trial program has been attached alongwith .

ii. In Wardha , as per the Order of the Bombay High Court , it was directed that the Trial be completed expeditiously . Annexure 2  
Later by another direction of Supreme Court trial in the Wardha case was extended to complete before 30<sup>th</sup> April 2026 . Annexure 3

iii. In Osmanabad , the Hon Supreme Court Order has Ordered dated 17<sup>th</sup> July 2025 stated “ that the trial court shall expedite the trial and make an endeavour to complete the trial in or before the end of the month of November, 2025 ” . Annxeure 5

iv. Currently all courts viz Court 47, Esplanade Court , Wardha Court , Nagpur Court , Osmanabad court , are fixing court dates on the same days of the week , and there in no mechanism of a co-ordination

between the courts to align the court dates for all courts for the accused

v. This situation is leading to a situation, where on the same day of the week, multiple courts have asked the accused to be present to conduct trial on the same day. And also as each trial court is fixed with its own date suiting its own availability, this is leading to loss of court time, witnesses being sent back and advocates time also being wasted due to adjournments.

vi. This has led to a travesty of Hon High Courts and Hon Supreme Court Orders, which had been passed with the intent and objective to accomplish expeditious and time bound trials.

vii. It may also be informed that the accused is facing trial in 20 criminal cases arising out of the same principal matter and all the criminal cases are related to government securities transactions. There are very few advocates who practice and understand government securities transactions and they need advance information about the court date, the witnesses who will be examined such that they can prepare and examine witnesses on the trial dates.

viii. It may also be mentioned here that as these cases involve complex government securities transactions, Advocates have often insisted that the accused be physically present one day in advance of the trial date, such that the advocate and accused could prepare for the trial and examination of the witness scheduled the next day.

10. Due to the above reasons, the On 6th May, 2025, the Accused had then approached the Hon Supreme Court for Extension of the Time Period for the trial running in Mumbai along with other Prayers, as none of the Trials in Mumbai was completed.

11. On 24<sup>th</sup> July 2025 , The Hon Supreme Court in its Order passed the following Order : Point 6 ( 3, 4 & 5) allowing an extention on 2 years for completion of the Trial in Court 47 Mumbai.

3) After hearing learned counsel for the parties, we are of the view that extension of time for two years as prayed for by the Court of Additional Chief Judicial Magistrate, 47th Court, Esplanade, Mumbai, deserves to be allowed. Accordingly, time is extended to decide all the criminal cases.

4) It is informed that the cases which were transferred to Mumbai have been placed for hearing before three courts. In this regard, it is suffice to observe that while transferring all the cases, our intention was to decide those cases by one Court/Judge. As such, these were transferred to 47th Court, Esplanade, Mumbai. In this view of the matter, we request the High Court to place all these cases before one judge/court to decide analogously by passing the judgment. We further request that in 4MA Nos. 754-769/2025 in T.P.(Crl.) No. 333-348/2021 etc. all the cases trial program indicating the list of witnesses/date of examination if not filed be submitted and the same be supervised as per the instructions issued by the High Court. We believe that all the cases be decided within extended time of two years as prayed

5) In view of the above observations, the miscellaneous applications stand disposed of accordingly. Pending application(s), if any, shall stand disposed of.

12. Thus from the above it may be seen that both the Bombay Court and the Hon Supreme Court has passed multiple orders complete the trial against the accused .

13. The application is being filed to pray this Hon Court to allow the accused to approach the Bombay High Court to seek a modification of the order dated 24<sup>th</sup> June 2021 , for the reason that several judgements by the Hon Supreme Court passed later than 21<sup>st</sup> June 2021 , is put the accused in an impossible position to run the trail in all 20 cases in a time bound manner as per the directions of the Hon Supreme Court and Hon High Court

14. Therefore it is most important and as per the Hon Supreme Court Orders as fixed in the 13 cases now being tried in Mumbai Court , this Hon Court allows time of 10 days for the accused to approach the Bombay High Court with a Prayer for modification of its Order dated 24.6.2021 and also Pray for an extention of the Time Period.

15. The accused prays that he be allowed to approach the Bombay High Court to Pray that the Bombay High Court also Orders for a Trial Program to be fixed for the Nagpur trial in alignment with the Court 47 Esplanade Mumbai , which has been directed to run trial after fixing a trial program with list of dates and witnesses

16. It may also be informed that the accused is facing trail in 20 cases in various places including Mumbai , Wardha , Nagpur , Kolkata and Osmanabad and the accused that been following the directions of the Hon High Court and Hon Supreme Court and has been attending trial on a regular and sincere basis

**PRAYER** :-It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a. Allow the accused 10 days time to approach the Hon Bombay High Court for the following
  - i.. To Pray before the court for a modification of its 24.6.2021 Order
  - ii. To Pray for an extension of the time for two years in alignment with Order dated 24<sup>th</sup> July passed by the Hon Supreme Court where in the Hon Supreme court granted and Extention of two years for completion of all the cases which have been transferred to Mumbai
  - iii. The accused will also pray before the Hon Bombay High Court to all Order for fixing of a trial program for conducting the Nagpur trial following the methods set by the Hon Supreme Court for completion of trial in a time bound manner
- b. Allow the , the trial be stayed for a period of 10 days such that the accused approaches the Hon Bombay High Court which the list of Prayers as mentioned above
- c. Pass such further order [s] as this Hon'ble Court may deem fit and proper in the facts and circumstances of the cases.

*Ulbe*

COUNSEL FOR ACCUSED No.3