

**IN THE COURT OF HON'BLE CHIEF JUDICIAL MAGISTRATE,
OSMANABAD.**

CRIMINAL APPLN. NO. OF 2025

In Reg. Cr. Case. No. 398/ 2002

APPLICANT: Sanjay Hariram Agarwal,

aged about 60 years, r/o 7 Hari Sava Street

Kidderpore, Kolkata – 700023.

-V/s-

NON-APPLICANT: State of Maharashtra.

Through P.S.O. of P.S Osmanabad

District: Wardha

**SUBMISSION NOTE ON THE ABOVE APPLICATION OF THE
APPLICANT**

1. That in the aforesaid Application, the Applicant has stated that several exhibits and articles were marked through the prosecution witnesses and that the Applicant does not have copies of the said marked exhibits and articles with him as the Ld. Advocate who was conducting the matter for the Applicant, Mr. Milind Shankarrao Patil (as is evident for the trial record), has unfortunately been ill and is presently not appearing before this Hon'ble Court. Due to the said circumstances, the Applicant is unable to obtain the marked exhibits and articles from the said Advocate.
2. It may be noted that the Applicant has already applied for the certified copies of the marked exhibits and articles, and the same are awaited.
3. That at present the stage of trial is recording of the statement of the Applicant under section 313 Cr. P. C.

4. The purpose of section 313 CrPC is to provide an opportunity to the accused to explain the facts and circumstances appearing against him in the evidence. It provides a procedural safeguard to the accused and provides a valuable opportunity to him to explain any point appearing against him in the prosecution evidence. This is an important facet of fair trial enshrined and protected under Article 21 of the Constitution of India
5. Explaining the importance of statement under section 313 CrPC, the Hon'ble Supreme Court of India in ***Paramjeet Singh @ Pamma vs. State of Uttarakhand(2010) 10 SCC 436***, was pleased to hold that:-

“Section 313 CrPC is based on the fundamental principle of fairness. The attention of the accused must specifically be brought to inculpatory pieces of evidence to give him an opportunity to offer an explanation if he chooses to do so. Therefore, the Court is under a legal obligation to put incriminating circumstances before the accused and solicit his response. The provision is mandatory in nature and casts an imperative duty on the Court and confers a corresponding right on the accused to have an opportunity to offer an explanation for such incriminatory material appearing against him.”

6. The object of section 313(1)(b) CrPC is to bring the substance of the accusation to the accused to enable the accused to explain each and every circumstance appearing in the evidence against him. The provisions of this section are mandatory and the Court is duty bound to afford an opportunity to the accused to explain each and every circumstance and incriminating evidence against him. It should be borne in mind that examination of the accused under section 313(1)(b) CrPC is not a mere formality.
7. That under such circumstances it is necessary for the Applicant to have all the incriminating prosecution evidence in the form of exhibits and

Articles on which the questions will be posed so that the Applicant will be in a position explain the circumstance, which right of the Applicant is not a mere formality.

8. Further, In ***Kalicharan vs. State of Uttar Pradesh(2023) 2 SCC 583***,the Hon'ble Supreme Court of India emphasised that the requirement of section 313 CrPC is that the accused must be explained the circumstances appearing in the evidence against him so that the accused can offer an explanation. It was held that if the accused is not explained the important circumstances appearing against him in the evidence on which his conviction is sought to be based, the accused will not be in a position to explain the said circumstances brought on record and will not be in a position to defend himself properly.

9. In ***Bommiseti Anjaneyulu vs. State of Andhra Pradesh 2002 (2) APLJ (HC) 91***, the Hon'ble High Court of Andhra Pradesh was pleased to hold that

“16. The very purpose of examining the accused under section 313 CrPC is to enable the accused to defend himself and explain in a proper manner the incriminating circumstances, which are spoken to by witnesses in their evidence. When once the incriminating evidence is not put to the accused at the time of 313 CrPC examination and the accused is not given an opportunity to explain the circumstances, it can safely be concluded that prejudice is caused to the accused.”

10. The Applicant humbly submits that the aforesaid judgements in no manner clearly explain that right of the accused under section 313 Cr. P. C. and for the effective exercise of such right, perusal of the exhibits and articles which were relied upon by the prosecution witnesses and for which the questions shall also be put to the Applicant, the availability of the exhibits and Article is necessary and until the same is received and

the sufficient time of 3 weeks is given to the Applicant to peruse, study and consult his Advocate, the Applicant would be seriously handicapped in giving statement under Section 313 Cr.P.C., which would cause grave prejudice to his defence.

11. It may also be noted that the applicant is undergoing Trial in 19 other cases in several courts in India viz Wardha , Nagpur and Mumbai .All the above trial are time bound by Orders the Hon Supreme Court
- 12.In Wardha the Supreme Court has directed the trial to be completed by 30th April 2026.
- 13.In Nagpur the Trial in as per the Hon Bombay High Court Order . Later this judgement was ratified by the Hon Supreme Court which mentioned that they will not interfere in the Order of Bombay High court . This Trial as per the Bombay High Court Order is supposed to done on a day to day basis to be completed in four months.
- 14.In Mumbai where the accused is having 17 cases , out of which 13 Cases are Time Bound as per the Supreme Court Order and therefore the trial is being conducted for four days each week
- 15.The exemptions applications for personal presence of the accused have been rejected by the courts in Wardha and Mumbai . Infact a Warning has been issued by the Mumbai Court yesterday threatening to issue a NBW if I am not present in his court today viz 24h Feb 2026.
- 16.It may be noted that the accused is a resident of Kolkata . The accused therefore has to travel from Kolkata to Mumbai and has to be present in Mumbai four days a week for the trial in 13 Supreme Bound Cases . This take 4-5 days every week .
- 17.The Accused has to travel to Wardha where the court is giving bi weekly dates . This takes 3 days .
- 18.The Accused then also has to travel to Nagpur where the court in giving two dates per week and this also takes 3-4 days each week .

19. In the circumstances as mentioned above, the accused finds himself in an impossible situation to come to Osmanabad and brief his advocate on the above case. This predicament of the accused has to be considered in light of the fact that the Accused was represented for the last 22 years in this court by Adv Milind Patil who has now suffered from some medical complications and has been hospitalised from last 3 months and that the accused has engaged a new advocate. The charge sheet in the case covers complex financial transactions and therefore the accused has to spend time with the advocate in Osmanabad to explain all the aspects of the case along with all evidence and exhibits in the trial.

20. It may also be noted that the Accused is 60 years of age. The accused has a history of Asthma and was admitted to Bellona Hospital, Kolkata in November 2025 for a period of 10 days due to Acute Asthma Problems. The accused has been on life-saving drugs during his stay in the hospital. The Accused is now required to be present in the hospital for Bi-Monthly check-ups to prevent any further Asthma Attack. The accused has also been warned by the Doctors against hectic domestic travel and also been advised sufficient Rest at Home to balance the exertion of travelling to Mumbai, Wardha, Nagpur and Osmanabad.

21. The accused under no circumstance wishes to delay any trial in any court but given multiple cases in multiple cities, all of which are Time Bound as per the Orders of the Hon Supreme Court, the accused has to distribute his time and attention to all cases in the equitable manner.

22. That the Applicant therefore prays that this Hon'ble Court may be pleased to grant three weeks time from the date of receipt of the certified copies of the exhibits as prayed for in the aforesaid application to enable the Applicant to appear and give his statement under Section 313 Cr.P.C.