

IN THE HIGH COURT OF JUDICATURE OF BOMBAY

BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. OF 2026

DISTRICT: DHARASHIV (O'BAD)

Sanjay Hariram Agarwal.

...**APPLICANT**

VERSUS

The State Of Maharashtra

...**RESPONDENT**

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PLACE : AURANGABAD

DATE : 05/04/2026.


[NIKHIL S. JAJU]
ADVOCATES FOR APPLICANT.

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I

IN THE HIGH COURT OF JUDICATURE OF BOMBAY

BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. OF 2026

DISTRICT: DHARASHIV (O'BAD)

Sanjay Hariram Agarwal.

...**APPLICANT**

VERSUS

The State Of Maharashtra

...**RESPONDENT**

SYNOPSIS

SR.NO.	DATES	PARTICULARS
1	11.12.25	That, the Applicant is arrayed as Accused No. 7 in R.C.C. No. 398/2002. The Applicant has been participating in the trial proceedings and holds the utmost respect for the judicial process. Recently, the Applicant had preferred a Criminal Revision Application No. 366 of 2025, before this Hon'ble High Court challenging the framing of charges. This Hon'ble Court was pleased to partly allow the said revision by judgment and order dated 11.12.2025, setting aside the order passed by the Trial Court, and thereafter, charges were framed in the alternative.
2	24.2.26	That, following the framing of alternate charges, the matter was scheduled for the

		<p>recording of the Applicant's statement under Section 313 of the Cr.P.C. To effectively respond to the incriminating material, the Applicant filed an application below Exh. 1125, before the Learned Trial Court seeking the supply of several crucial documents that had not been previously provided. The Learned Trial Court allowed this application vide order dated 24.02.2026, upon finally receiving the required documents, the Applicant demonstrated his bona fides by immediately submitting a pursis (Exhibit 1145) acknowledging receipt. That, thereafter the Learned Trial Court fixed the matter for 30.03.2026 for the recording of the Section 313 statement, with a direction to remain present at 11:00 AM.</p>
3	30.3.26	<p>That, in Wardha Court - In the month of march, the accused had been called by Wardha court and directed to be physically be present in the court date on 30/3/2026 . The accused's advocated had been warned by Wardha court on the previous court date that the accused must be physically present in all court dates and regularly. That, accused was physically</p>

		present in Wardha Court on 30/03/2026
4	30.3.26	That, the Applicant advocate was present in the Dharashiv Magistrate Court, and also filed an application for exemption at Exh. 1148. The counsel of the accused also apprised the Court of this genuine predicament. The Court rejected the exemption application and issued a Non-Bailable Warrant against the Applicant. Immediately thereafter, on the very same date (30.03.2026), the counsel for the Applicant moved a formal application Exh. 1147 seeking the cancellation of Non-Bailable Warrant issued against the applicant. However, the Learned Trial Court rejected both the application Exh. 1147 & 1148. Shockingly, the Learned Magistrate at Dharashiv recorded in the impugned order that because the accused was not physically present before the Court, as such Non-Bailable Warrant could not be cancelled.
5		Hence this Criminal Revision Application

POINTS TO BE CONSIDERED :-

- 1] Whether, considering the entire facts whether Trial Court has exceeded its jurisdiction in issuing the Non Bailable

IV

Warrant and against the applicant and Whether said order
deserves to be quashed and set aside?

ACT AND RULES :

- 1] BHARTIYA NAGRIK SURAKSHA SAHITA, 2023.
- 2] BHARTIYA NYAYA SAHITA, 2023.

AUTHORITIES :- At present Nil.



PLACE : AURANGABAD
DATE : 05/04/2026.

[NIKHIL S.JAJU]
ADVOCATES FOR APPLICANT.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY

BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. OF 2026

DISTRICT: DHARASHIV (OSMANABAD)

In the matter of Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 / Corresponding to Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

AND

In the matter of impugned orders dated 30.03.2026 passed by the Learned Trial Court in R.C.C. No. 398/2002, to the extent that they reject the application for exemption, issue a Non-Bailable Warrant against the Applicant, and reject the subsequent application for cancellation of the said warrant.



S. H. NEWAL

Sanjay Hariram Agarwal,

Age: 60 Years, Occupation: Business,

Residing at 7 Hari Sava Street, Kidderpore,

Kolkata-700023, West Bengal.

... APPLICANT

(Ori. Accused No. 7)

VERSUS

The State of Maharashtra,

Through Police Station, Osmanabad,

Taluka and District: Dharashiv (Osmanabad).

(Copy to be served on the Public Prosecutor,

High Court of Bombay,

Bench at Aurangabad)

.....RESPONDENT

TO,

THE HON'BLE CHIEF JUSTICE AND

OTHER HON'BLE PUISNE JUDGES

OF THE HIGH COURT OF JUDICATURE

OF BOMBAY, BENCH AT AURANGABAD.

**THE HUMBLE REVISION APPLICATION
OF THE APPLICANT ABOVENAMED:**

S. Agarwal

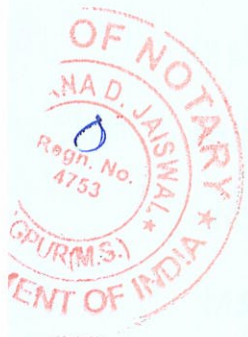


MOST RESPECTFULLY SHOWETH AS UNDER :-

1] The applicant submits that, the Applicant herein is invoking the Revisional Jurisdiction of this Hon'ble Court under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (corresponding to Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023) to quash and set aside the impugned orders dated 30.03.2026 passed by the Learned Additional Chief Judicial Magistrate, Dharashiv in R.C.C. No. 398/2002. By the said impugned orders, the Learned Trial Court directly issued a Non-Bailable Warrant (NBW) against the Applicant for a single day's absence and mechanically rejected the applications filed for exemption and cancellation of the warrant filed on 30/03/2026.

2] The applicant submits that, the Applicant is arrayed as Accused No. 7 in R.C.C. No. 398/2002. The Applicant has been participating in the trial proceedings and holds the utmost respect for the judicial process. Recently, the Applicant had preferred a Criminal Revision Application No. 366 of 2025, before this Hon'ble High Court challenging the framing of charges. This Hon'ble Court was pleased to partly allow the said revision by

S. A. [Signature]



judgment and order dated 11.12.2025, setting aside the order passed by the Trial Court, and thereafter, charges were framed in the alternative. The Copy of Judgment and order dated 11.12.2025, passed by this Hon'ble Court in Criminal Revision Application No. 366 of 2025, is annexed herewith and marked as **Exhibit – A.**

3] The applicant submits that, following the framing of alternate charges, the matter was scheduled for the recording of the Applicant's statement under Section 313 of the Cr.P.C. To effectively respond to the incriminating material, the Applicant filed an application below Exh. 1125, before the Learned Trial Court seeking the supply of several crucial documents that had not been previously provided. The Learned Trial Court allowed this application vide order dated 18.03.2026, upon finally receiving the required documents, the Applicant demonstrated his bona fides by immediately submitting a pursis (Exhibit 1145) acknowledging receipt. That, thereafter the Learned Trial Court fixed the matter for 30.03.2026 for the recording of the Section 313 statement, with a direction to remain present at 11:00 AM. The Copy of application Exh. 1125, order dated 18.03.26, passed thereon is annexed herewith and marked as **Exhibit – B.**

S. Ahmad

4] It may be noted that the applicant was a director in a Stock Broking company based in Mumbai against which several cases were filed in year 2002. By Orders of the Hon'ble Supreme Court in 2022 , 15 cases were transferred to be Esplanade court 47 , Mumbai and their Trial in all the 15 cases had been made Time Bound . The Trial in other cases, viz Wardha , Osmanabad and Nagpur were allowed to be run in the respective courts and also expedited by the Hon Supreme Court and Hon'ble High Courts. The applicant submits that, in Wardha Court - In the month of march, the accused had been called by Wardha court and directed to be physically be present in the court date on 30/3/2026 . The accused's advocated had been warned by Wardha court on the previous court date that the accused must be physically present in all court dates and regularly. In the past this Wardha court has issued NBW against the Applicant for not being physically present in Court. The court had issued NBW's against the applicant on 29/9/25 and 6/12/25 for not attendance of court dates as the accused was attending some other trial. The Wardha court had fined the application a total of Rs 16,000/- for being absent.

5] The applicant submits that, On 30th March the applicant

G. H. Newal



had to attend the following court dates :

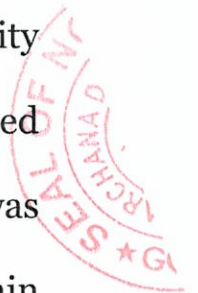
Wardha-573/2002

Osmanabad –Case No 398/2002

6] The applicant submits that, on 30.03.2026, the Applicant was caught in a genuine, unavoidable conflict of judicial scheduling. The Applicant was legally required to attend a hearing before the Trial Court at Wardha in R.C.C. No. 573/2002 as the court had warned the accused advocate to make the accused physically present in the court of 30.03.2026. It may be noted that this Wardha Trial is also an Time Bound Trial as per the directions of the Hon'ble Supreme Court. As per the last order of the Hon'ble Supreme Court, the Wardha trial is supposed to be completed in the month April 2026.

7] The applicant submits that, as it is a physical impossibility for any human being to be present in two different courts located in different districts at the exact same time, the Applicant was compelled to attend the court at Wardha and could not remain physically present before the Learned Trial Court at Dharashiv. It is imperative to emphasize that this absence was strictly limited to this single date. The copy of Roznama dated 30.3.2026, in





R.C.C. No. 573/2002, pending before Trial Court at Wardha, is annexed herewith and marked as **Exhibit – C.**

8] The applicant submits that, the Applicant advocate was present in the Dharashiv Magistrate Court, and also filed an application for exemption at Exh. 1148. The counsel of the accused also apprised the Court of this genuine predicament. But unfortunately, the Learned Trial Court in Dharashiv took a hyper-technical and highly coercive approach. The Court rejected the exemption application and issued a Non-Bailable Warrant against the Applicant. Immediately thereafter, on the very same date (30.03.2026), the counsel for the Applicant moved a formal application Exh. 1147 seeking the cancellation of Non-Bailable Warrant issued against the applicant. However, the Learned Trial Court rejected both the application Exh. 1147 & 1148. Shockingly, the Learned Magistrate at Dharashiv recorded in the impugned order that because the accused was not physically present before the Court, as such Non-Bailable Warrant could not be cancelled. The copy of application at Exh. 1147 & 1148 and order dated 30.03.2026, passed thereon are annexed herewith and marked as **Exhibit – D.**

9] That the impugned orders issuing an Non-Bailable

S. H. Adwal



Warrant and rejecting its cancellation directly threaten the personal liberty of the Applicant guaranteed under Article 21 of the Constitution of India. These are not mere interlocutory orders but intermediate orders that drastically affect the substantive rights of the Applicant. Therefore, the present Criminal Revision Application is fully maintainable before this Hon'ble Court.

10] The applicant being aggrieved and dissatisfied by the impugned orders dated 30.03.2026 passed by the Learned Trial Court, Dharashiv, below Exh. 1147 & 1148, in RCS No. 398/ 2002, the Applicant approaches this Hon'ble Court on the following, amongst other, grounds, which are taken in the alternative and without prejudice to one another:-

GROUNDS

I] The Learned Trial Court committed a gross error of law by directly issuing a Non-Bailable Warrant without first exhausting lesser coercive measures. First, a summons must be issued. If the accused fails to appear without a valid reason, a bailable warrant should be issued. An Non-Bailable Warrant is a measure of absolute last resort, to be used only when the accused is intentionally evading the judicial process or absconding. By jumping directly to an Non-Bailable Warrant for a single day's

S. H. NARAI



absence, the Trial Court entirely by passed this settled law.

II] The Learned Trial Court committed a grave jurisdictional error by explicitly recording that an NBW cannot be cancelled in the physical absence of the accused. That an Non-Bailable Warrant may be cancelled or converted into a Bailable Warrant/Summons without insisting on the physical appearance of the accused, provided an application is moved on their behalf prior to execution. By rejecting the application moved by the counsel on the sole ground of physical absence, the Trial Court acted ultra vires the binding mandate of the Apex Court.

III] The Learned Trial Court failed to appreciate that the Applicant's absence was not an act of defiance, negligence, or an attempt to evade the law. The Applicant was mandated to appear before the Trial Court at Wardha on the exact same day. The law does not compel the impossible. Attending another court of law constitutes the highest form of "sufficient cause" for absence. Penalizing the Applicant for complying with a coordinate court's directive is a severe miscarriage of justice.

IV] The impugned order is violently antithetical to the

S. Anand



fundamental right to life and personal liberty enshrined in Article 21 of the Constitution. As the issuance of a non-bailable warrant involves severe interference with personal liberty. The fact that the matter was "time-bound" or that the date was given "as per convenience" does not grant the Magistrate the authority to strip away the constitutional protections of the accused.

V] The impugned orders suffer from a total non-application of judicial mind. The Trial Court failed to consider the Applicant's past conduct, including the filing of the pursis (Exhibit 1145) on 18.03.2026 just days prior, which demonstrates diligent participation in the trial. A single instance of absence, backed by an unimpeachable legal justification, cannot form the foundation for the most drastic coercive step available under criminal procedure. The routine and mechanical issuance of Non-Bailable Warrant's amounts to an abuse of the process of the court, necessitating immediate intervention by this Hon'ble Revisional Court.

VI] That no prejudice whatsoever will be caused to the prosecution if the impugned orders are set aside. The Applicant is a respectable citizen with deep roots in society and is not a flight risk.

S. A. Arzwal



VII] That if the impugned order is not stayed and the Non-Bailable Warrant is not cancelled, the police authorities will execute the warrant, leading to the Applicant's unjustified arrest and incarceration. This will cause irreparable harm, public humiliation, and an indelible stain on the Applicant's reputation, defeating the very essence of justice. Any unjustified arrest and incarceration at this point will also affect the trials running in the Court 47 in Mumbai, Trial in Nagpur and Trial in Wardha, all of which are time bound and expedited by the Hon Supreme Court and High Court.

VIII] The Applicants craves leave to add, amend or alter the ground of application if and when necessary.

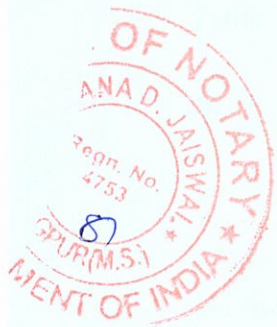
IX] The Applicants had not received with any notice of caveat so far.

X] That the Applicants undertakes to supply the English translation of Marathi documents as and when directed by this Honorable Court.

XI] The Applicants have not filed any other or similar appeal in the Supreme Court of India or in any other Court touching the subject matter of this application.

XII] **IT, IS THEREFORE, PRAYED THAT :-**

S. H. N. W. W. L.



- A. Criminal Revision Application may kindly be allowed.
- B. Call for the records and proceedings pertaining to R.C.C. No. 398/2002 pending before the Learned Additional Chief Judicial Magistrate, Dharashiv (Osmanabad);
- C. To quash and set aside the impugned orders dated 30.03.2026 passed by the Learned Trial Court below Exh. 1147 & 1148, in R.C.C. No. 398/2002, and both the application be allowed
- D. Pending the hearing and final disposal of this Criminal Revision Application, grant an ad-interim stay on the execution, operation, and implementation of the Non-Bailable Warrant issued pursuant to the order dated 30.03.2026;
- E. Pass any such other and further orders as this Hon'ble Court may deem fit and proper in the interest of justice, equity, and good conscience.

AND FOR THIS ACT OF KINDNESS THE APPLICANTS, AS IN DUTY BOUND, SHALL EVER PRAY.

PLACE : AURANGABAD
DATE : 5/04/2026.

NIKHIL S. JAJU
ADVOCATE FOR APPLICANT

S. H. NAWAL



14

IN THE HIGH COURT OF JUDICATURE OF BOMBAY

BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. OF 2026

DISTRICT: DHARASHIV (O'BAD)

Sanjay Hariram Agarwal.

....**APPLICANT**

VERSUS

The State Of Maharashtra

...**RESPONDENT**

LIST OF DOCUMENTS

SR.NO.	PARTICULARS	EXH	PAGE NO.
1	Copy of Judgment and order dated 11.12.2025, passed by this Hon'ble Court in Criminal Revision Application No. 366 of 2025	'A'	157023
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4	Copy of application at Exh. 1147 & 1148 and order dated 30.03.2026	'D'	317033-B
LAST PAGE NO.			33-B

PLACE : AURANGABAD

DATE : 05/04/2026.



[NIKHIL S.JAJU]

ADVOCATES FOR APPLICANT.



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Eth. A

A

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 366 OF 2025

Sanjay Hariram Agarwal,
Age : 60 Years, Occu: Business,
R/o 7, Hari Sava Street, Kidderpore,
Kolkata – 700 023,
West Bengal.

... Applicant
[Orig. Accused]

Versus

The State of Maharashtra,
Through Police Station, Osmanabad,
Tq. & Dist. : Osmanabad.

... Respondent

.....

Mr. P. R. Katneshwarkar, Senior Advocate i/by Mr. N. S. Jaju,
Advocate for the Revision Petitioner.
Mr. S. A. Gaikwad, APP for the Respondent-State.

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 09.12.2025

Pronounced on : 11.12.2025

JUDGMENT :

1. Revisionist-original accused no.7 hereby takes exception to the order dated 13.10.2025, rejecting his application Exhibit 953 seeking alteration or dropping of charges by invoking Section 216 of Cr.P.C.
2. In nutshell, it is the case of revision petitioner that, FIR No. 106 of 2002 was registered at Osmanabad Police Station for commission of offence under Sections 120B, 218, 406, 409, 420, 468, 471 r/w 34



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of IPC against in all ten persons on the premise that, deceased accused no.1 and accused no.10 were Chairman of District Central Cooperative Bank, Osmanabad and Nagpur respectively. That, by colluding and conniving with each other and other accused, it is alleged that, an amount of Rupees Thirty Crores was transferred and credited from Nagpur District Central Cooperative Bank (NDCC Bank), of which accused no.10 was Chairman, to the account of Osmanabad District Central Cooperative Bank (ODCC Bank), of which accused no.1 was Chairman, and thereafter, at the instance of accused no.4, who was Deputy Chief Officer of Osmanabad District Cooperative Bank, along with accused nos. 1 and 3, unauthorizedly credited the above amount in the account of one Home Trade Limited (of which accused no.7-present revision petitioner is Director) for purchasing Government Securities and that, on the same day, an amount of Rs.29,99,99,766/- was again transferred to account of NDCC Bank. These all transactions, according to informant, were illegal, without prior permission of Commissioner of Cooperative Societies and moreover, it was in violation of rules of RBI. On above accusations, FIR came to be registered for above offence.

3. Learned senior counsel for revision petitioner pointed out that, revision petitioner is arraigned as accused no. 7 in above crime and



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moreover, he is falsely involved in the above crime. According to learned senior counsel, there was no material to connect present revision petitioner with other accused in conspiring or conniving to commit above alleged transactions. Therefore, learned senior counsel pointed out that, when investigation did not reveal any incriminating material against present revision petitioner, he had applied for discharge under Section 239 of Cr.P.C. but the same came to be dismissed by order dated 07.08.2013.

4. Learned senior counsel would further submit that, here, there is patent illegality and irregularity on the part of investigating machinery as well as trial court in invoking both the provisions i.e. under Sections 406 and 420 of IPC, in one and the same case. Learned senior counsel would emphasize that, both these provisions cannot co-exist in one and the same case, as the same are antithetical and cannot go hand in hand. According to learned senior counsel, in spite of so and there being clear law laid down by the Hon'ble Apex Court regarding the above, charges have been framed which comprises both, the offence under Section 406 as well as under Section 420 of IPC along with other offences, which, according to learned senior counsel, is impermissible in the eyes of law.

5. Apart from above submissions, learned senior counsel would submit that, here, even going by the nature of allegations, there is no criminality attributable to the accused as the transactions were purely civil in nature, of which there is clear remedy of recovery by way of civil proceedings. Consequently, criminal action, according to learned senior counsel, is misdirected.

6. Learned senior counsel criticized the observations of the trial court in its order dated 13.10.2025 pointing out that there is non-consideration of settled legal position and now, at the time of answering Section 313 Cr.P.C., learned senior counsel submits that, because of the ambiguity created by virtue of charges being framed both, under Section 406 and Section 420 of IPC, accused is not in a position to take up his defence and as such, according to learned senior counsel, revision petitioner would be deprived of fair trial. For all above reasons, learned senior counsel has raised following prayers :

“C. The impugned order dated 13.10.2025 passed below Exhibit 953 in R.C.C. No. 398 of 2002, quashed and set aside and the application Exh. 953, under Section 216 Cr.P.C. be allowed by directing alteration of the contradictory and antithetical charges under Sections 406 and 420 and;



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D. *Pending hearing and final disposal of present revision application the further proceedings in R.C.C. No. 398 of 2002 may kindly be stayed."*

7. Learned senior counsel, in support of his contentions, has placed reliance on the following rulings :

- a. *Delhi Race Club (1940) Limited and others v. State of Uttar Pradesh and another* (2024) 10 SCC 690.
- b. *Shikhar Chemicals v. State of Uttar Pradesh and another* 2025 SCC OnLine SC 1643.
- c. *Bharat Uttam Rajurkar and others v. The State of Maharashtra* [Cri. WP No. 1232 of 2017 decided on 12.01.2018 by this Court at Nagpur].
- d. *Om Prakash v. State of U.P.* 2023 SCC OnLine All 2817.
- e. *Anant Prakash Sinha alias Anant Sinha v. State of Haryana and another* (2016) 6 SCC 105.

8. In answer to above, learned APP pointed out that, there is no infirmity and illegality in the impugned order. He would point out that, at the time of framing charge, all accused were made aware of the nature of charge. That, subsequently, even charge has been framed and explained and plea of the accused is also recorded. Consequently, it is his submission that, there is no merit in the revision urging to alter or drop charge by invoking Section 216 of

Cr.P.C. According to learned APP, present revision petition itself is misconceived and not maintainable as, according to him, discharge application has already been rejected by the trial court. He would submit that, draft charges were made available and both sides were appraised about the contents of the charge and thereafter charge has been framed and so, objection raised at belated stage is, according to him, a clear attempt to evade or prolong trial. He further pointed out that present attempt of petitioner is merely to prolong and protract the trial which is already made time bound by the Hon'ble Apex Court being of the year 2002. He seeks reliance on the rulings of the Hon'ble Apex Court in *K. Ravi v. State of Tamil Nadu and another* reported in 2024 DGLS (SC) 816 and *P. Kartikalakshmi v. Ganesh and another*, reported in 2017 (3) SCC 347.

9. After considering the above submissions and on going through the papers, here, there seems to be challenge to the order of rejection to alter charge, pressed into service by present revision petitioner who is arraigned as accused no.7 in above referred crime bearing no. 106 of 2002 registered at Osmanabad Police Station for commission of offence under Sections 120B, 218, 406, 409, 420, 468, 471 r/w 34 of IPC.

10. Primary and fundamental submission of learned senior counsel is that, here, crime has been registered under both, Section 406 as well as 420, amongst other offences, however, above both charges cannot be invoked in one and the same matter as they are antithetical to each other. Learned senior counsel's another submission is that, accused is supposed to answer under Section 313 Cr.P.C. and therefore, he is unable to take a specific defence in view of charges being framed both, under Section 406 and 420 of IPC. Consequently, he has prayed for altering the charge/dropping the charge. Before the trial court, he had preferred application below Exhibit 953 in R.C.C. No. 398 of 2002 for either altering the charge or dropping either of the charge, and the same has been rejected.

11. Record shows that, in this case, FIR was registered on 05.05.2002. After investigation, charge has already been framed. Vide applications Exhibits 306, 407 and 502, present revision petitioner, along with other accused, had prayed for discharge by invoking Section 239 of Cr.P.C. The learned Chief Judicial Magistrate, Osmanabad, by order dated 07.08.2013, observed that, there was *prima facie* case for framing charge against all accused and no case being made out on merit for discharge, application Exhibit 407 of present revision petitioner along with other applications of two other



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accused bearing nos. 306 and 502 came to be rejected by order dated 07.08.2013.

12. Record shows that, again present revision petitioner tendered application Exhibit 606, again seeking discharge and even this application, by order dated 06.05.2014, has been rejected and learned trial court has, in the concluding para observed that, matter is for framing charge but on account of absence of accused nos. 7 to 10, framing of charge has been adjourned to 08.05.2014. The learned Chief Judicial Magistrate also took a note and observed in the very order that, there were directions of the Hon'ble Apex Court to dispose off the matter by end of October, 2013 and such time has been extended till 31.10.2014, and thereby clearly directed all accused to remain present to answer the charge on 08.05.2014 without fail. Record shows that, on said date charge was also framed by learned Chief Judicial Magistrate.

13. Now, it appears that almost after more than a decade and when matter has reached the fag end of trial, in view of stage under Section 313 of Cr.P.C., surprisingly third attempt is taken, that too on the ground that Sections 406 and 420 cannot co-exist and do no go hand in hand and for the same, above referred rulings of the Hon'ble Apex Court are taken recourse to.



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14. There is no dispute that, in view of above rulings of the Hon'ble Apex Court, both charges under Sections 406 and 420 cannot co-exist and are antithetical. Here, charge is already framed and there is no dispute to that extent. From copy of the charge it is emerging that amongst other offences, charges, both under sections 406 and 420 are framed. However, in view of the law laid down by the Hon'ble Apex Court in above relied cases, the same is not permissible. But, both charges can be framed in alternative and there is no illegality in the same. Consequently, to that extent, interference is called for. Hence, the following order :

ORDER

- I. Criminal Revision Application is partly allowed.
- II. The order dated 13.10.2025 passed below Exhibit 953 in R.C.C. No. 398 of 2002 by the learned Additional Chief Judicial Magistrate, Osmanabad is hereby quashed and set aside.
- III. Learned trial court to re-frame and explain the charge by framing charge under Section 406 and 420 in the alternative.
- IV. The revision is accordingly disposed off.

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T-C
NS-Jay

[ABHAY S. WAGHWASE, J.]

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Exh. B

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

82-1135

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-

ANT:

State of Maharashtra.
Through P.S.O. of P.S Osmanabad
District: Wardha

APPLICATION OF THE APPLICANT ABOVE NAMED

1. That during the course of trial, several exhibits and articles were marked through the prosecution witnesses. At present, the Applicant does not have copies of the said marked exhibits and articles with him.
2. That the learned Advocate who was conducting the matter for the Applicant, Mr. Milind Shankarrao Patil, 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.
3. That in view of the above difficulty, the Applicant is in the process of applying for certified copies of the marked exhibits and articles, and the same are awaited.
4. That without perusal of the exhibits and articles which were relied upon by the prosecution witnesses, the Applicant would be seriously handicapped in giving statement under Section 313 Cr.P.C., which would cause grave prejudice to his defence.
5. 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 to enable the Applicant to appear and give his statement under Section 313 Cr.P.C..

Prosecution
to send
three
17/12/2024

6. That the present application is filed bona fide, in the interest of justice, and not with any intention to delay the proceedings.

PRAYER

In view of the above, it is most respectfully prayed that this Hon'ble Court may be pleased to:


a) Grant three weeks time from the date of receipt of certified copies of the marked exhibits and articles for recording the statement of the Applicant under Section 313 Cr.P.C.; _____ and

Pass such other order as this Hon'ble Court may deem fit in the interest of justice.

Dates 10/21/2026

ACCUSATION NO 7

Through


Mr B. R. Manna

25

Say of App

Hon'ble & Respected;

In above matter Applicant filed
this application have no any base.
Certified copies of exhibited documents
are not required for statement u/s 313 Cr.Pc.
Matter is time bond matter and already
more time granted to accused, Hence
accused have no necessary three weeks
time for certified copies.

Hence application rejected.

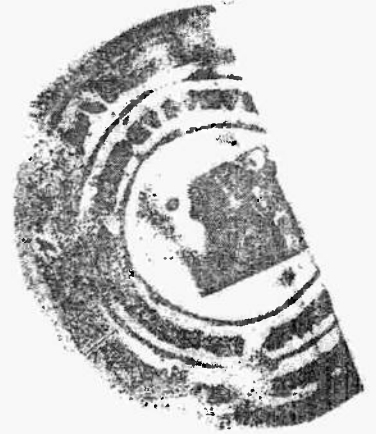
Dt-17/2/2026

Through



Vishwajit

App. Dhandhir (CIT)



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1

R.C.C. No. 398/2002
State Vs. Pawan and Oths.
Order below Exh.1125

R.C.C. No. 398/2002

ORDER BELOW EXH. 1125

1. Accused No. 7 has filed present application and thereby prayed to grant three weeks time from the date of receipt of certified copies of the exhibited documents and articles for recording his statement under Sec. 313 of Code of Criminal Procedure.

2. It is contended that the advocate who was conducting his matter is not appearing before the court due to illness. Therefore the accused is unable to obtain the required documents from his advocate. It is further contended that he is in the process of applying for certified copies of the marked exhibits and articles, and the same are awaited.

3. It is further contended that without perusal of the exhibited documents and articles which were relied upon by the prosecution witnesses, he would be seriously handicapped in giving statement under Sec. 313 Cr.P.C. which would cause grave prejudice to his defence. Hence he has prayed to grant three weeks time from the date of receipt of the certified copies of the exhibited documents to enable him to give his statement under Sec. 313 Cr.P.C.

4. Prosecution has taken strong objection on this application by filing its say on the back side of the application. It is contended that the application is baseless. It is further contended that certified copies of the required documents are not required for recording of statement under Sec. 313 of Cr.P.C. It is further contended that the present matter is time bound matter and already sufficient time has been granted to the accused. Hence further three weeks time should not be granted to the accused. Hence on all these grounds prosecution has prayed to reject the application


5. Heard Ld. Advocate Shri. B.R.Mane for accused No. 7 and

Mane

Shri. V.S.Shevalkar Ld. APP for the State.

6. Perusing application, say thereon and considering submissions it appears that the present matter is fixed for recording of statement of accused No. 7 under Sec. 313 of Cr.P.C. Perusal of record shows that the present case is pending since the year 2002. Further as per the directions of the Hon'ble Apex Court the matter is required to be disposed of on or before 15.07.2026. Further record shows that the evidence of the prosecution came to be closed on 31.10.2025 by passing an order below Exh. 1. In the said order it was specifically mentioned that matter is posted for recording of statement of all the accused under Sec. 313 of Cr.P.C. and all the accused are directed to remain present on 07.11.2025 for recording their statements. However thereafter the present accused remained absent on 07.11.2025 as well as on 12.11.2025 and therefore statement of remaining accused were recorded on 12.11.2025 and matter posted for recording of statement of present accused on 17.11.2025. Since then on one pretext or other, the accused No. 7 is remaining absent and avoiding to record his statement under Sec. 313 of Cr.P.C.

7. Now the accused has filed present application and thereby submitted that he is applying for certified copies of the exhibited documents and articles and after getting those copies, he will require three weeks time to give his statement under Sec. 313 of Cr.P.C. As stated herein above the evidence of the prosecution came to be closed on 31.10.2025 and the matter was posted for recording of statement under Sec. 313 of Cr.P.C. on 07.11.2025. The accused No. 7 was present before the court on 31.10.2025 when the evidence of the prosecution was closed and directions were given to remain present on 07.11.2025 for recording



Pawan

of the statement under Sec. 313 of Cr.P.C. Therefore the accused could have filed the present application earlier. However inspite of having sufficient opportunities the accused failed to apply earlier for the reasons best known to him. The entire conduct of the accused No. 7 shows that he is unnecessarily prolonging the time bound matter.

8. Nevertheless, in order to give fair opportunity to the accused to give his statement under Sec. 313 of the Cr.P.C., one week time is granted to the accused to obtain certified copies of the required documents. Bench clerk of this court is directed to supply the certified copies of all the required documents as per rules to the accused within one week of receipt of application from the accused. Accused is directed to submit the application mentioning the proper description of all the required documents alongwith their exhibit numbers to the court within two days. If accused failed to apply within two days, then no further time will be granted to the accused for applying for certified copies of the required documents. Accused No. 7 to note and comply accordingly.

Date:- 24/02/2026

Pradnya
24/2/2026
(Smt. Pradnya V. Medhe)
Addl. C. J. M.Osmanabad.



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Pradnya
मुख्य न्यायाधीश की कोठी
जमाना

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E.H.C.

C

Chief Judicial Magistrate , Wardha
In the court of :CHIEF JUDICIAL MAGISTRATE, WARDHA
CNR Number :MHWR030003432002
Case Number :R.C.C./0300573/2002
St. of Mah. Thr. P.S.Wardha versus Sanjay Hariram Agrwal 12
Date : 30-03-2026

Business : सरकारी वकील हजर, आरोपी ६, ७, ९ व १० अबेट, आरोपी नं.१ हजर, व उर्वरीत आरोपी गैरहजर, साक्षदार गैरहजर सर्व आरोपींतर्फे त्यांचे विधीज्ञ हजर, नि.१०१८/ड-आरोपी नं.५, ८, ११ ते १३ च्या गैरहजेरीबाबत अर्ज प्रकरण नि.९८६ वर सुनावणी व सा.क्र.९ चे समंस परती करीता

Next Purpose : Evidence Part Heard

Next Hearing Date : 06-04-2026

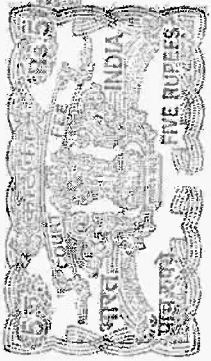
CHIEF JUDICIAL MAGISTRATE, WARDHA

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मे. अनि मुख्य न्यायदंडाधिकारी कोर्ट, धाराशिव चौथे न्यायालय

R.C.C/398/2002

स्टेट फ्ल-1/147
वि
पवनराजे व इतर



खटरीक प्रकरणी आरोपी वृ. 7 तर्फे विनंती दर्ज पुढीलप्रमाणे आहे.

हे ही, खटरीक प्रकरणी मे. न्यायालयाने मागील काही तारखांपासून प्रकरणाची सुनावणी ठुपार सत्रामध्ये होईल असे सांगितल्याने प्रकरणी खर्ज देखील ठुपार सत्रामध्ये देण्याबाबत सुचविणे होते. परंतु आजरोजी मे. न्यायालयाने सकाळ सत्रामध्येच आरोपी वृ. 7 विरुद्ध वॉरंट काढणेबाबत आदेश पारित केल्याचे समजले. वास्तविकता आरोपी वृ. 7 हा वर्षी येथे मा. मुख्य न्यायदंडाधिकारी यांचे न्यायालयात हजर असल्याने आजरोजी प्रकरणी हजर राहू शकत नसल्याचा हजेरी माफीचा खर्ज मे. न्यायालयाने दाखल केलेला आहे. तसेच आरोपी वृ. 7 तर्फे कागदपत्रे मिळाल्यानंतर कागदपत्रांची पाहणी व अभ्यास करण्याकरिता 03 आठवड्यांची मुदत मिळावी म्हणून खर्ज मे. न्यायालयामध्ये पुढील आहे. असे असता आरोपी वृ. 7 विरुद्ध NBW काढण्याचा आदेश पारित करणे अन्यायकारक व नैसर्गिक न्याय तत्वांप्ररोधक आहे. तरी आरोपी विरुद्ध काढण्यात आलेले NBW काढणेबाबत पारित करण्यात

AP to Say
30/3/2024

Say of App
Honble & Respected,
In above matter
accused No 7 intentionally
did to remain
absent before Honble
court for statement
3 313 Crpc.
matter is time bound
warrant application
rejected.
Through
V.S. Sheetal


32

आवेता आदेश रद्द करणे ज्याचे आहे.

नरी विनंती की

कृपया अर्ज मंजूर करावा व आरोपी वृ. 7 विरुद्ध
आजरोजी पारित करण्यात आवेता NBW काढण्याचा
आदेश रद्द करण्यात यावा.

दि: 30/03/2026 **TRUE COPY** आरोपी वृ. 7 तर्फे


मुख्य न्यायाधीशजी वरमं न्यायालय
जयपूर

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Comparison

1-4-26 डॉ. की. एच. बसाळ

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Perused application and say thereon. Heard.
The long matter is pending for recording of statement
of accused no. 7 & 45 & 33 cases. Further accused has
already received copies of all required documents &
thereafter he submitted pursuant vide no. 1145 to that
effect on 18/3/2026. Thereafter, as per application of
accused vide no. 1144, today's date was given, so
sufficient time was already granted to the accused
to go through the documents. Further specific directions
were given to the accused on last date, to remain present
today at 11.00 am sharp for recording his statement.
In spite of that today accused failed to remain
present. Therefore NBW came to be issued against him.
Now accused is not present before the Court. Hence
NBW cannot be cancelled. Hence for the above
reason, application is rejected. Atore
18/3/2026.

32-A

मे. अति. मुख्य न्यायदंडाधिकारी साहेब, धाराशिव यांचे

न्यायालयात

R.C.C. No.398/2002

Exh.1147

स्टेट

—वि—

पवनराजे व इतर

सदरील प्रकरणी आरोपी क्र.७ तर्फे विनंती अर्ज पुढीलप्रमाणे
आहे.

हे की, सदर प्रकरणी मे. न्यायालयाने मागील काही तारखापासून प्रकरणाची सुनावणी दुपार सत्रामध्ये होईल असे सांगितल्याने प्रकरणी अर्ज देखील दुपार सत्रामध्ये देण्याबाबत सुचविले होते. परंतु आज रोजी मे. न्यायालयाने सकाळ सत्रा मध्येच आरोपी क्र.७ विरूद्ध वारंट काढणेबाबत आदेश पारीत केल्याचे समजले. वास्तविकता आरोपी क्र.७ हा वर्धा येथे मा. मुख्य न्यायदंडाधिकारी यांचे न्यायालयात हजर असल्याने आज रोजी प्रकरणी हजर राहू शकत नसल्याचा हजेरी माफीचा अर्ज मे. न्यायालयात दाखल केलेला आहे. तसेच आरोपी क्र.७ तर्फे कागदपत्रे मिळाल्यानंतर कागदपत्राची पाहणी व अभ्यास करण्याकामी ०३ आठवड्यांची मुदत मिळावी म्हणून अर्ज मे. न्यायालयामध्ये प्रलंबीत आहे. असे असताना आरोपी क्र.७ विरूद्ध NBW काढण्याचा आदेश

32-B

पारित करणे अन्यायकारक व नैसर्गिक न्याय तत्वाविरोधात आहे. तरी आरोपीविरूद्ध NBW काढणेबाबत पारित करण्यात आलेला आदेश रद्द करणे न्यायाचे आहे.

तरी विनंती की

कृपया अर्ज मंजूर करावा व आरोपी क्र.७ विरूद्ध आज रोजी पारित करण्यात आलेला NBW काढण्याचा आदेश रद्द करण्यात यावा.

दि.३०/०३/२०२६

आरोपी क्र.७ तर्फे
सही/—
अॅड. व्ही.एच. रसाळ

32-C

Order

Perused application and say thereon. Heard since long matter is pending for recording of statement of accused No.7 U/s 313 Cr.P.C. Further accused has already received copies of all required documents and thereafter he submitted Pursis vide Exh.1145 to that effect on 18/03/2026. Therefore, as per application of accused vide Exh.1144, today's date was given. So sufficient time was already granted to the accused to go through the documents. Further specific directions were given to the accused on last date, to remain present today at 11.00 am sharp for recording his statement. In spite of that today accused failed to remain present. Therefore, NBW came to be issued against him. Now cannot be cancelled. Hence for the above reason, application is rejected.

Sd/-

30/03/2026

Therefore, exemption cannot be granted.

Hence rejected.

Sd/-

20/03/2026

32-D

Say of APP

Hon'ble & Respected ;

In above mater accused No.7 intentionally avoid to remain present before Hon'ble Court for statement U/s 313 Cr.P.C.

Matter is time bound matter.

Hence application rejected.

Dt. 30/03/2026

Through
Sd/-
V.J. Shewalkar

मा. अति. मुख्य न्यायदंडाधिकारीकोठे धाराशिव यांचे
R.C.C. No. 398/02

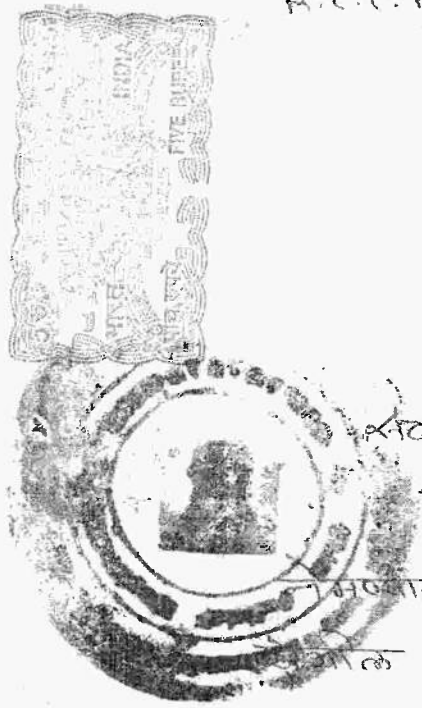
न्यायालयात

भारत शासन

दि.

पवनराजे व इतर

20/3/2024



खदर प्रकरणी आरोपी कृ. 7 तर्फे विवृती अर्ज
हे वी, खदरचे प्रकरण आजरोजी मे. कोर्टात
मजबूत आले असतुन आरोपी कृ. 7 हा तर्फी
कोर्ट मा. मुख्य न्यायदंडाधिकारीकोठे यांचे

न्यायालयातील R.C.C. No. 573/2002 (खालक वि
संजय) या प्रकरणी हजर राहणेबाबी तर्फी येथे
गेल्या असल्याने आजरोजी प्रकरणी हजर राहणे
अडचणीचे झाले आहे, तरी, आरोपी कृ. 7 ची
आजरोजीची हजेरी माफ होणे याबाबत आहे.

मजबूत विवृती वी,

TRUE COPY

[Signature]

खदर अर्ज मंजूर ठरवा व आरोपी
कृ. 7 ची आजरोजीची हजेरी माफ करावी.

दि. 30/03/2026

आरोपी कृ. 7
तर्फे.

Compared by
Xerox by
Compared by

NBWS already issued against
the accused. Further his application for
cancellation, is also rejected. Further
today's date was given on 10/3/2026 as per his comminara
Therefor exemption cannot be granted
+ hence rejected

[Signature]
20/3/2024

33-A

मा. अति. मुख्य न्यायदंडाधिकारी धाराशिव याचे न्यायालयात

R.C.C. No.398/02

Exh.1148

महाराष्ट्र शासन

—वि—

पवनराजे व इतर

सदर प्रकरणी आरोपी क्र.७ तर्फे विनंती अर्ज

हे की, सदरचे प्रकरण आज रोजी मे. कोर्टात नेमण्यात आले असून आरोपी हा वर्धा येथील मा. मुख्य न्यायदंडाधिकारी साहेब यांचे न्यायालयातील R.C.C. No.573/2002 (शासन वि. संजय) या प्रकरणी हजर राहणेकामी वर्धा येथे गेलेला असल्याने आज रोजी प्रकरणी हजर राहणे अडचणीचे झाले आहे. तरी आरोपी क्र.७ ची आज रोजीची हजेरी माफ होणे न्यायाचे आहे.

म्हणुन विनंती की,

सदरचा अर्ज मंजुर करावा व आरोपी क्र.७ ची आज रोजीची हजेरी माफ व्हावी.

दि.३०/०३/२०२६

आरोपी क्र.७ तर्फे

सही/—

अॅड. विवके रसाळ

33-B-

ORDER

NBW is already issued against the accused. Further his application for cancellation is also rejected. Further today's date was given on 18/03/2026 as per his convenience.

Therefore, exemption cannot be granted.

Hence rejected.

Sd/-
20/03/2026

J-C
S
N. S. Singh