

ORDER BELOW EXHIBIT NO.1177

(CNR No. MHOS03-000396-2002)

Today, accused No.7 viz. Sanjay Hariram Agrawal voluntarily appeared before the Court and filed an application vide Exh.1174 for taken matter on today's board. The application came to be allowed and matter is taken on today's board. Thereafter, accused filed present application and thereby prayed to set aside the proclamation issued against him vide order Exh.1153.

2. It is contended that the present matter is pending for recording of his statement U/sec. 313 of Code of Criminal Procedure (for short Cr.P.C.). As the accused was unable to remain present before the court, therefore, NBW was issued against him on 30.06.2026. So also, in view of order below Exh.1153, proclamation was also issued against the accused requiring him to remain present before the Court. Accordingly, today accused appeared before the Court and filed the present application and thereby prayed to set aside proclamation issued against him.

3. On this application, say of the prosecution was called. Ld. APP has filed his say on the backside of the application and thereby taken objection on this application. It is contended that the accused is intentionally avoiding to remain present before the Court for recording his statement U/sec. 313 of Cr.P.C. It is further contended that, the present matter is made time bound by the Hon'ble Supreme Court of India. Lastly, it is contended that there

is no provision to call back proclamation when the accused is present before the Court. Hence, on all these grounds prosecution has prayed to reject the application.

4. Heard both sides. Ld. Advocate Shri. Sanket S. Tambe for the accused has submitted that the accused has filed Revision Application before the Hon'ble Bombay High Court, Bench At Aurangabad against the order passed by this Court regarding issuance of warrant against the accused. He has further informed to the Court that Hon'ble High Court has in the said Revision Application, orally directed the accused to appear before the Trial Court and file an application for cancellation of warrant. He has further submitted that in the said Revision Application Hon'ble Bombay High Court has already passed directions to this Court not to take any coercive action against the accused. In view of the said order, if this Court takes the accused into custody then it will amount to the Contempt of order of Hon'ble High Court, hence he has submitted that this Court should only cancel the NBW of the accused and release him. Lastly, he has also submitted that, though the matter is pending for recording of statement of the accused U/sec. 313 of Cr.P.C. since long, accused is not ready to record his statement and he is going to file application for adjournment and therefore, requested to release the accused forthwith without taking him into the custody and without recording of his statement U/sec. 313 of Cr.P.C.

5. Per contra Ld. APP Shri. V. S. Shevalkar for the prosecution submitted that matter is made time bound by the Hon'ble Apex Court and inspite of that accused is intentionally

avoiding to remain present. As the proclamation is issued against the accused, therefore, it is necessary to take a accused in the custody. Hence, he has argued to reject the application.

6. Perusing the application, say thereon and considering submissions of both sides, it appears that before going into the merits of the application, it is necessary to look into the conduct of the present accused. The present matter is of the year 2002. Further, Hon'ble Supreme Court of India in Petition(s) for Special Leave to Appeal (Cri) (Nos.)10625-10626/2024, vide its order dated 09.01.2026 has specifically directed to this Court to make an endeavor to dispose of the matter within a period of six months after framing the charges. Further, Hon'ble Apex Court has also issued specific directions to this Court regarding conduct of the present matter. The specific directions of the **Hon'ble Apex Court** are reproduced as under :

"We further direct that the parties shall cooperate with the conduct of the trial.

In the event of any of the parties not cooperating with the trial, the Trial Court is at liberty to pass appropriate orders for ensuring their presence."

It is also observed in the order that, "*We make it clear that no further extension shall be granted.*"

Perusal of record shows that the charge has been re-framed on 15.01.2026 and therefore, as per the directions of Hon'ble Apex Court, the present matter is required to be disposed of **on or before 15.07.2026**. However, record and roznama clearly

shows that since, 17.11.2025 till today, the present case is pending only for recording of statement of this accused U/sec. 313 of Cr.P.C. The record also shows that the accused is avoiding to record his statement on one or other pretext. Further, inspite of giving sufficient opportunities accused failed to cooperate with the conduct of the trial. As the accused failed to remain present for recording of his statement on 30.03.2026, NBW came to be issued against him. Thereafter, on 06.04.2026 proclamation came to be issued against the accused. The accused challenged the order of issuance of NBW passed by this Court by filing Cri. Rev. Application No. 128/2026 before the Hon'ble Bombay High Court, Bench at Aurangabad. In the said Revision Application, Hon'ble High Court vide its order dated 08.04.2026, directed this Court not to take coercive action against the accused. The said order is continued till 12.06.2026.

7. While the above said order of the Hon'ble High Court is in force, today the accused voluntarily surrendered before the Court. As the proclamation U/sec. 82 of Cr.P.C. is issued against the accused vide order passed below Exh. 1153, this Court is not having any other option but to take the accused into the custody. It is to be noted that after passing of the directions by the Hon'ble High Court, this Court has not taken any action against the accused. Today also matter is not listed on the board. The accused sue moto appeared and requested the Court to take the matter on today's board. Therefore, the matter is taken on today's board and as the proclamation is already issued against the accused, therefore, he is taken into custody. At the cost of repetition it is

necessary to mention here that, the Hon'ble Appex Court in Special Leave to Appeal (Cri) (Nos.)10625-10626/2024, vide its order dated 09.01.2026, specifically granted liberty to this Court to pass the appropriate order for ensuring the presence of the accused. Accordingly, the Court has passed the order of NBW and proclamation, and as the accused voluntarily surrendered before the Court, he is required to be taken into custody. In view of above discussion, I passed the following order.

ORDER

1. As the accused No.7 viz. Sanjay Hariram Agrawal has voluntarily surrendered before the Court, therefore, he is taken into MCR till 24.06.2026.
2. Application is disposed of accordingly.

Date :- 10/06/2026.

(Smt. Pradnya V. Medhe)
Chief Judicial Magistrate,
Osmanabad.