

RCC No.573/2002
State Vs. Sanjay Agrawal and
Ors.
Exh.No.986
CNR No.MHWR030003432002

Order below Exh.986
(dt.23.07.2026)

Accused No.1 filed this application for grant of permanent exemption wherein he has submitted before Court that accused no.1 facing present matter U/s.406, 420 of IPC. That the present crime is registered against accused in the year 2002. Since then accused no.1 conducting present case he has submitted that accused is facing more than 20 criminal matters in different Courts of India.

2) It is submitted that accused is currently residing at Kolkata and he is old age person and suffering from old age disease. The accused is facing number of criminal cases therefore it is not possible for accused no.1 to present each Court date personally he is residing far away from Wardha. Therefore, Sometimes it is not possible for accused to reach Court date on fixed date. The accused undertakes that he shall not misuse liberty given to him and present before Hon'ble Court when required. The accused undertakes to abide all terms and condition imposed by this Hon'ble Court, therefore, this Hon'ble Court pleased grant permanent exemption to accused in the interest of justice.

3) Prosecution filed their say at Exh.986-A wherein the essential principle of criminal law is that, the trial of an offence should take place in the presence of the accused. This principle has been embodied in Section 273 of the Code of Criminal Procedure, which provides, as a general rule, that all evidence taken in the course of trial shall be taken

in presence of the accused but in certain circumstances, the court can exempt an accused from personal appearance. However, we should not forget that exemption from personal appearance is not available to an accused as a matter of right and is subject to the discretion of the Court. The Hon'ble court can exercise discretion in trivial and technical cases. Here no any difficulty to the applicant accused in reaching the Hon'ble court. The applicant/accused does not deserve the relief of permanent, exemption considering the nature of allegations, conduct of accused and as no inconvenience in personal appearance.

4) The prosecution further submit that, the Cr.P.C does not provide any enumerative list of offences where an exemption from personal appearance should be granted. It leaves within the powers of a court and judicial discretion of the courts to dispense with the personal appearance of an accused either throughout or at any stage of the proceedings based on facts and circumstances of the case. Therefore, the higher courts never held that permanent exemption should always be granted if asked for. In fact everything is left to the discretion of the court. The grant of permanent exemption as a matter of rule would result in the impression that a serious criminal case is a show in which the accused can take part by proxy merely by briefing a lawyer. That certainly is not the intention of law nor it is sound public policy.

5) The prosecution further submit that the accused have sought permanent exemption mainly on the ground that as he needs, to attend various courts in number of cases, which is not valid ground for exemption. The prosecution submits that, these are not the grounds on which permanent exemption can be granted. This cannot be termed as inconvenience in appearing before the court. While dealing with permanent exemption the seriousness of the offence is permanent

consideration. The present offence is serious. The accused has committed serious anti social economic offence which affected to the public at large, therefore considering seriousness of offence permanent exemption of accused should not be granted. The Hon'ble Supreme court in case of *Lily Begum Versus Joy Chandra Nagabansh reported in 1994(2) SCC 39* held that, wherein serious allegations are made against the respondent. If such a privilege, in our opinion is given to an accused in a case of this nature, people will lose their confidence in the administration of justice. The observations of above Judgement are applicable in our case as there are serious allegations of economic offence and misuse of public fund. The sections cannot be the same in cited case and case in hand. The important aspect of serious allegations is the same in both cases and if serious allegations are there then accused does not deserve privilege of permanent exemption.

6) The prosecution further submit that the accused cannot seek permanent exemption just because they will not dispute their identity during trial, their advocate will remain present on each date, and they will not seek adjournment. If these will be the reasons for getting permanent exemption there 95% accused will not be required to come in the court and proxy culture will prevail and accused will get unrestricted liberty, in spite of serious charges. In many murder and rape cases the identity is not disputed and advocates are ready to conduct the matters in absence of an accused and if we grant permanent exemption just because the identity is not disputed and that to without seeing seriousness of crime, then it would set wrong precedent. The present offence is the serious one. The presence of accused during trial is integral part of criminal justice system and no one should take it as harassment. Therefore, prosecution prayed to reject the said application.

7) Heard both the counsels. Perused entire record.

8) The accused taking repeated liberty while filing the application for exemption under section 205 of the Code of Criminal Procedure. The repeated filing of exemption application filed by the accused on the one and the other pretext that he has busy before the Hon'ble Court at Bombay and some other Courts in other cities. The applications were allowed. Now the accused came before this Court with this application for granting of permanent injunction to exempt him from the trial and he is ready to give undertaking that he shall not misuse liberty given to him.

9) But the entire record shows that the trial of the present case is pending since last 25 years and at the flag end of this trial accused filed this application for permanent exemption and not this application but he has filed another application for permission to appear before this Court through video conferencing. The accused is taking liberty for exemption to remain present before the Court, but the conduct of accused shows that he has taking liberty to remain absent before this Court on fixed dates. His counsel also not taking any pain to file an application when accused is absent before Court. Repeatedly, called the accused, thereafter, Court called his counsel and then they filed an application for exemption. Today, the detailed order passed on Exh.1. In such circumstances, it is not the privilege of the accused that he is facing number of trials in different Court and for that reason he is seeking permanent exemption from this Court. The prosecution rightly mentioned in his say the grant of permanent exemption as a matter of rule would result in the impression that a serious criminal case is a show in which the accused can take part by proxy merely by briefing a lawyer. The reason mentioned by the accused in his application that he

has residing far away from the Court at Wardha. But he has not mentioned his permanent address in the present application nor filed any document regarding his permanent address. It is not fit to grant application when the trial is pending since 25 years and the repeated directions given by the Hon'ble Supreme Court and the Hon'ble High Court to try the matter expeditiously. In such circumstances, the application is liable to be rejected. Hence, I pass the following order -

ORDER

Application is rejected.

Place:-Wardha

Date:- 23.07.2026.

(Smt.M.Y.Doiphode)
Chief Judicial Magistrate
Wardha.