

REGULAR CRIMINAL CASE NO. 573/2002
State of Maharashtra Vs. Sanjay Agrawal & Others

Exh. No. 1079

ORDER ON EXH. NO. 1079

(Date: 10.08.2026)

1.

An application was filed to cancel the Non-Bailable Warrant issued against Accused No. 1. The said application has been filed under Section 70(2) of the Code of Criminal Procedure, and the demand of the accused is that the Non-Bailable Warrant order passed on Date 27.07.2026 be withdrawn or canceled.

2.

It is the contention of Accused No. 1 that he does not have the conduct of disobeying the court's order or keeping the said case pending. The accused contends that he had filed an application at Exh. No. 1051 to appear through virtual technology (VC), which was rejected on Date 23.07.2026 because Annexure-2 of the Hon'ble High Court was not annexed with it. The accused submits that through the said application, he demonstrated to the Court that he wants to proceed with the case and not keep it pending.

3.

The accused further contends that on Date 27.07.2026, the case was fixed before this Court. On that day, it was necessary for the accused to appear before the Court, but the accused had to appear before the Court at Nagpur, and he also had a case before the Hon'ble High Court Bench at Nagpur. Therefore, he had to remain present there.

4.

The accused contends that on Date 27.07.2026, on a single day, proceedings were pending before two different Courts. Therefore, it was not possible for him to appear before two different Courts. Hence, he could not appear before the Wardha Court as he had a case in Nagpur, and thus, it is not a matter of him evading the proceedings.

5.

Accused No. 1 further states that on Date 27.07.2026, his advocate was present before the Court in the first session and attempted to give an explanation to the Court, but did not prepare an exemption application. Since no application was received till 1:00 PM, the Court issued a Non-Bailable Warrant order at 1:14 PM. On that day, as the accused had to appear before another Court, he could not appear before this Court, and his reason for absence was lawful.

6.

The accused further contends that legally, issuing a Non-Bailable Warrant is the last option. However, on Date 27.07.2026, the accused could not appear before the Court as he had to appear in another Court. The accused states that he has filed a copy of Criminal Writ Petition 4419/2013 of the Hon'ble High Court, in which on 30 March 2026, the accused was present in Wardha Court and Osmanabad Court had issued a Non-Bailable Warrant against him, and the application filed on the same day to cancel the Non-Bailable Warrant was rejected by that Court; hence, the Hon'ble High Court, Aurangabad Bench had granted an interim stay. A copy of the same has been filed by the accused.

7.

The accused further states that he is ready to cooperate with the Court in the present case. The accused himself is ready to appear before the Court, but if the Non-Bailable Warrant against the accused is not canceled, it will cause loss to the accused and his liberty will be snatched away.

8.

The accused further states that he is suffering from an illness like Asthma. As he frequently has to travel from one city to another, he remains continuously ill, and as he is resting today, he cannot appear before the Court. Therefore, the said application be allowed in the absence of the accused and the Non-Bailable Warrant passed against him be canceled.

9.

The Prosecution has submitted its reply to the said application and has strongly opposed it. It is necessary to conduct the case on every date in the presence of the accused. The accused remains absent, due to which the case cannot proceed further; hence, the Court issued a Non-Bailable Warrant against Accused No. 1 on Date 27.07.2026.

10.

It has been learned that on 31.07.2026, Accused No. 1 was present on the premises of Wardha Court, but he did not file an application to cancel the Non-Bailable Warrant. Therefore, it appears that the conduct of the accused is solely aimed at intentionally delaying the case.

11.

The Prosecution further states that the reason given in the application is unacceptable. On the day the Non-Bailable Warrant was issued, neither Accused No. 1 nor his advocate was present before the Court. As per the reason in the application of the accused, he was personally present before another Court, which shows that Accused No. 1 does not personally appear before this Court so that the case merely remains pending.

12.

The parameters of the judgment of the Hon'ble Bombay High Court in *Arun Kumar Vs. State of Maharashtra* submitted by the accused were in a case filed under Section 138 of the Negotiable Instruments Act; therefore, the facts and circumstances of that case are different from the case before this Court. Also, in *Sanjay Agrawal Vs. State of Maharashtra* filed by the accused, the Hon'ble Supreme Court granted permanent exemption to the accused. Therefore, the criteria of the judgments in both the above cases do not apply to this case.

13.

The Prosecution further states that Accused No. 1 has nowhere filed any document or condition in the application showing that he cannot physically appear before this Court. Therefore, if the Non-Bailable Warrant against the accused is canceled, the accused will remain absent before the Court and the 24-year-old case will remain pending; hence, the application of the accused should be rejected.

14.

Arguments of both parties were heard. Also, on Date 23.07.2026 and 27.07.2026, the following orders were passed:

ORDER ON EXH. NO. 1
(Date 23.07.2026)

The present case is for evidence, and Investigating Officer Mr. S. G. Deshpande, aged 76 years, is present before the Court today from 11:10 AM to 1:30 PM. Accused No. 1 remained absent despite repeated calls till 1:30 PM. Advocates for the accused, Mr. P. A. Tamboli and Mr. N. V. Pawar, were called till 1:30 PM but remained absent. On behalf of the accused, Advocate K. P. Verma filed an exemption application at 1:30 PM after calling Advocate Mr. N. V. Pawar. However, the said application does not mention any statement that there is no dispute regarding absence. Accused No. 1 does not remain present before the Court. Advocates appointed by the accused are aware that as per the guidelines of the Hon'ble Supreme Court and the conditions imposed by the Hon'ble High Court, this case is scheduled two days a week. But even an application to conduct the matter does not reach before this Court till 1:30 PM. Accused No. 1 filed an application to appear before this Court via virtual technology (VC), but did not provide any information as per the circular of the Hon'ble High Court along with the application, and the accused is absent to argue on the said application. A permanent exemption application has been filed on behalf of the accused.

2.

The present case has been pending since the year 2002. While the witness is present, the accused is not present in Court, but considering the analysis of reasons mentioned in his exemption applications, they are allowed, and evidence of the Investigating Officer is recorded. Therefore, permanent exemption of absence is being allowed time to time by accepting applications solely for the purpose that the case proceeds further. In such circumstances, if permanent exemption is granted, Accused No. 1 will not remain present in this Court, and consequently, it will not be possible for the Court to proceed with the case, because the accused files different applications on every date with the sole intention of keeping the case pending. Thus, the Investigating Officer in this case, aged 76 years, has appeared before the Court to give evidence after nearly 25 years. His physical condition does not appear suitable to stand continuously for an hour in the witness box to give evidence. Therefore, his evidence in the case is being recorded in stages. But today till 1:30 PM, no application has been filed nor Accused No. 1 is present before the Court. Therefore, Accused No. 1 will be given a last chance today, and if his application comes, it may be allowed; otherwise, an appropriate order will be passed against him.

Wardha.

Date: 23.07.2026

Sd/-

(Mrs. M. Y. Doiphode)

Chief Judicial Magistrate, Wardha

ORDER ON EXH. NO. 1

(Date 23.07.2026)

The Investigating Officer in the present case, aged 76 years, was present before the Court till 2:00 PM. Accused No. 1 remained absent till 3:05 PM. The exemption application was filed at 3:05 PM. The accused did not bother to file an exemption or adjournment application till 3:05 PM. For recording the evidence of the Investigating Officer, the presence of Accused No. 1 before the Court is necessary, because in compliance with the principles of natural justice, evidence must be recorded in his presence. But as the accused only wants to delay the case, he does not appear before the Court even when the witness is present. Nor does he file an exemption or adjournment application. The application filed today was submitted at 3:05 PM, and as the Investigating Officer is a senior citizen, he was present before the Court from 11:10 AM to 2:00 PM and in the second session, he was not present due to personal reasons. In such circumstances, it is an embarrassment for the Court, which aims to dispose of the case as quickly as possible. However, Accused No. 1 does not cooperate. Therefore, the exemption application filed by the accused today was allowed under Section 205 of the Code of Criminal Procedure as a last chance. This should be noted by the accused and his advocate, and if he fails to appear on the next date, appropriate orders will be passed.

Wardha.

Date: 23.07.2026

Sd/-

(Mrs. M. Y. Doiphode)

Chief Judicial Magistrate, Wardha.

Order

(Date 27.07.2026)

RCC No. 300573/2002

State Vs. Sanjay Agrawal & Others

Exh. No. 01

As per the direction given to the accused on 23.07.2026 given to the accused No. 1. He shall remain present before Court at 11.00 a.m. Accused No. 1 is absent other accused No. 5, 8, 11 to 13 filed their exemption application on record. I.O. is present for evidence till 01.00 p.m. accused is absent. No exemption till time. Hence, issue N.B.W against accused No. 1.

Place: Wardha

Date: 27.07.2026.

Sd/-

(Smt. M. Y. Doiphode)

Chief Judicial Magistrate

Wardha.

15.

In context with the present case, after passing the above three detailed orders, the accused was ordered to appear before the Court on Date 27.07.2026. Looking at the above orders, even when the 76-year-old Investigating Officer was present before the Court, no exemption application of the accused was on record till 3:05 PM; hence, it was not possible to record the witness evidence in the absence of Accused No. 1. On Date 27.07.2026, the Investigating Officer was present. But till 1:00 PM, no exemption application was filed on behalf of the accused. On perusal of Exh. No. 1, Non-Bailable Warrants were previously issued against the accused on dates 17.10.2025, 08.01.2026, and 23.09.2025. Therefore, no matter how much the accused claims that he is ready to conduct the case and will remain present on every date, looking at the above dates, it appears that the Court repeatedly canceled NBWs considering the age of the case.

16.

However, before this Court, even though the Hon'ble Supreme Court has not fixed a time frame for disposal, as per letter SC(C)626/2025 Dated 10.11.2025 received by the Hon'ble Bombay High Court, Bench at Nagpur, orders have been issued to dispose of this case as early as possible. Also, in RG/27/2025 of the Hon'ble Bombay High Court, measures for disposing of time-bound cases of the Hon'ble Supreme Court and Hon'ble High Court have been provided. Not only this, at the end of every month, this Court is required to submit a detail of the work done in this case during the month to the Hon'ble High Court, Bombay. Therefore, while fulfilling all these requirements, recording the evidence of the Investigating Officer in the absence of the accused, when there is no exemption application from the accused, does not fit into the definition of principles of natural justice; hence, the absence of the accused poses an impediment to conducting the case.

17.

Looking at the Roznama of the present case, although the accused contends that he should be granted permission to appear via VC, cases against the accused are pending in various Courts. Despite having full knowledge regarding VC rules of the Hon'ble Bombay High Court, an application written merely on an affidavit cannot be considered, and that application was submitted by the accused solely for time-pass/delaying tactics. Looking at the complete Roznama of the accused's case, in the year 2025 and 2026, on dates 11.07.2025, 23.07.2025, 06.08.2025, 12.08.2025, 14.08.2025, 18.08.2025, 21.08.2025, 25.08.2025, 28.08.2025, 02.09.2025, 04.09.2025, 08.09.2025, 11.09.2025, 15.09.2025, 18.09.2025, 23.09.2025, 30.10.2025, 03.11.2025, 06.11.2025, 10.11.2025, 17.11.2025, 20.11.2025, 24.11.2025, 27.11.2025, 01.12.2025, 04.12.2025, 08.12.2025, 11.12.2025, 23.12.2025, 01.01.2026, 05.01.2026, 08.01.2026 (no exemption application), 05.02.2026, 11.02.2026, 17.02.2026, 23.02.2026, 26.02.2026, 05.03.2026, 09.03.2026, 16.03.2026, 23.03.2026, 30.03.2026, 13.04.2026, 20.04.2026, 27.04.2026, 04.05.2026, 08.05.2026, 14.05.2026, 21.05.2026, 01.06.2026, 06.06.2026, 08.06.2026, 18.06.2026, 22.06.2026 (application rejected), 29.06.2026 (application rejected), 06.07.2026, 09.07.2026, 16.07.2026, 20.07.2026, 23.07.2026, exemption applications of the accused were filed and appear to have been allowed solely for the reason that the case proceeds further. However, from 22.06.2026 onwards, even after the exemption applications of the accused were rejected, the accused did not appear before the Court. Thereafter, exemption applications submitted by advocates for the accused because the witness was present were allowed till 23.07.2026 solely with the single objective that the case moves forward. But despite passing an order on Exh. No. 1 on Date 23.07.2026, the accused did not remain present before this Court. Therefore, on Date 27.07.2026, as the witness was repeatedly present and the accused was not in a mindset to cooperate with the Court to conduct the case, and as there was no exemption application on behalf of the accused, a detailed order on Exh. No. 1 was passed and a Non-Bailable Warrant was issued.

18.

If the accused contends that he was present before the Nagpur Court on Date 27.07.2026, he could have filed such an application in Court on Date 03.08.2026, but on Date 03.08.2026, the accused did not file any application in Court. Today, in this application seeking cancellation of Non-Bailable Warrant, if his contention is that a Non-Bailable Warrant was issued in his absence in this case because he was present before the Court at Nagpur on Date 27.07.2026, then he could have appeared in Court on Date 03.08.2026 or even prior to that on 28.07.2026 and stated this. In document list Exh. No. 1081 filed by the accused along with his application, daily business was filed showing that Accused No. 3 was present before the Court. But this Court is unaware whether he is Accused No. 3 in that case or not. The accused has filed Document No. 2 along with the said document list, wherein he has also shown that cases are pending against him and his dates are on the same day in different Courts, but before this Court on Date 27.07.2026, no exemption application was filed stating that the accused was present before the Court at Nagpur and therefore could not come to this Court.

19.

The circumstances and facts of this case are different from the criteria of judgments filed by the accused. Thus, it appears that the accused is merely taking undue advantage of his cases pending before various Courts to get this order canceled, because looking at the date-wise details of exemption applications granted time to time in 2025-2026 for the purpose of moving the case forward, it was necessary for the accused to submit an exemption application before this Court, and he has knowledge that the case is fixed two days a week. But without doing so, the accused files an application today in his absence to cancel the Non-Bailable Warrant issued against him. Regarding why he cannot physically appear before this Court, apart from the statement that he is an asthma patient, there is no other material nor medical certificate to show it.

20.

Therefore, in such circumstances, it can be concluded that the accused is not cooperating with the Court in conducting this case. The accused submits or does not submit exemption applications before the Court whenever he feels like it, and the inclination of the accused appears to be towards how to keep the case pending. Hence, in such circumstances, the Non-Bailable Warrant issued against the accused in his absence cannot be allowed for cancellation as the accused is not cooperating in conducting the case. Therefore, the application of the accused deserves to be rejected. Hence, the following order is passed:

ORDER

Application is rejected.

Wardha.

Date: 10.08.2026

MRUNAL YASHWANT DOIPHODE

Digitally signed by MRUNAL YASHWANT DOIPHODE

Date: 2026.08.10 18:03:02 +0530

(Mrs. M. Y. Doiphode)

Chief Judicial Magistrate, Wardha.