



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY PVT. PARTY NO. 124 OF 2025

Netafim Agricultural Financing Agency Pvt. Ltd. (NAFA)
Through its authorised Signatory,
Mr. Somnath Babasaheb Dhole,
Assistant Manager, Legal Department,
Age : 44 years, Occu. : Service,
R/o. C/o. Branch Office
at House No.N-12,/D-02/05,
Swami Vivekanand Nagar, T.V. Centre Road,
Chhatrapati Sambhajinagar.

... Applicant
(Orig. Complainant)

Versus

Amol S/o. Shankarrao Waghmare,
Age : Major, Occu. : Agriculturist,
R/o. At Post Shiraswadi, Tq. & Dist. Jalna.

... Respondent
(Orig. Accused)

.....
Mr. V. P. Golewar, Advocate for Applicant.

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 01 DECEMBER 2025
PRONOUNCED ON : 04 DECEMBER 2025

ORDER :

1. Original complainant, who instituted proceedings under section 138 of Negotiable Instruments Act, 1881 against present respondent, is aggrieved by the dismissal of complaint by invoking section 256 of Cr.P.C. and acquittal of accused by learned Judicial Magistrate First Class (Court No.11), Aurangabad in SC.C. No.5270 of

2020 and is thereby intending to prefer appeal and hence the instant leave application.

2. Learned counsel for applicant pointed out that, complaint bearing S.C.C. No. 5270 of 2020 was instituted for commission of offence under section 138 of N.I. Act. That, the learned J.M.F.C., after perusal of the complaint and documents on record, was pleased to issue process against the respondent. That, on 29.07.2024 and 29.08.2024, the matter was posted for issuance of non bailable warrant against the accused respondent. On 17.10.2024, the learned trial court, without considering the fact that non bailable warrant as ordered to be issued vide earlier order, had not been issued, ought to have posted matter for issuance of non bailable warrant against respondent. But, the learned trial court kept the matter for dismissal in default. However, on 07.12.2024, the matter was listed on unready board and the court was on leave that day. On 07.12.2024, the applicant through his advocate has filed online application for issuance of non bailable warrant against accused. That, the learned trial court did not looked into the record of the online proceedings and application submitted by the applicant online in the above matter and dismissed the complaint for non appearance vide order dated 12.12.2024 under section 256 of Cr.P.C. Learned counsel submits that, complainant is deprived of justice. Moreover, according to

learned counsel, learned trial Judge also failed to consider the continuous absence of accused in causing appearance. Therefore, in the interest of justice, he prays to set aside the impugned order by restoring the complaint back on the file of learned J.M.F.C.

3. Despite service of notice, no one appeared on behalf of the respondent.

4. Here application is for leave to file appeal against the judgment and order of learned Judicial Magistrate First Class, Aurangabad dated 12.12.2024 dismissing the complaint for want of prosecution by invoking section 256 of Cr.P.C. In spite of notice, none from the other side appeared to contest/oppose the application.

5. Therefore, for the reasons stated in the application, leave to file the appeal is required to be granted. Hence, the following order is passed :-

ORDER

- (i) Application stands allowed.
- (ii) Leave is granted to file Appeal.
- (iii) Registry to register the Appeal.
- (iv) After registration of appeal, issue notice to respondent, returnable on 22.12.2025.

(ABHAY S. WAGHWASE, J.)