



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

1 CRIMINAL WRIT PETITION NO. 847 OF 2025

KUSUMBAI KACHRU KAKDE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

....

Advocate for the Petitioner : Mr. Kishor T. Shirrurkar

APP for Respondent No.1-State : Mrs. P.R. Bharaswadkar

....

**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

Dated : 31st July 2025

PER COURT :-

1. In view of our order dated 14th July 2025, the in-charge C.J.J.D. and J.M.F.C., Phulambri, Dist. Aurangabad, has given a report. It appears that at Exhibit-56, a common application under Sections 216 and 319 of Cr.P.C., was filed by the present petitioner. It is then stated that between 17.10.2023 to 07.11.2023, the accused had sought repeatedly exemptions and they had not filed reply. Eventually, it came to be filed on 26.12.2023. Thereafter also, from 26.12.2023 to 16.07.2024, the accused continuously took exemptions. Learned Advocate for the accused had not advanced the arguments on the said application. It appears that the arguments on behalf of learned APP have been heard on 03.09.2024. Case law have been given by learned APP on 08.04.2025. However, now, the Presiding Officer appears to have proceeded on medical leave.

2. Taking into consideration the events those have been stated in the report, it appears that the concerned Presiding Officer before whom R.C.C. No.24 of 2016 is pending, has given liberal accommodation to the accused, when, in fact, he should see as to whether the exemption is really necessary. Furthermore, in respect of deciding the application under Sections 216 and 319 of Cr.P.C., the presence of accused is not at all necessary. How much weightage should be given or how much part can be allowed to be played by the existing accused, when it is an application for the addition of accused i.e. not the existing, but other person to be added as an accused was the question involved. Therefore, we direct the learned Judicial Magistrate First Class, Phulambri, Dist. Aurangabad, before whom R.C.C. No.24 of 2016 is pending, to decide the application Exhibit-56, within a period of two months from today.

3. With this direction, the petition stands disposed of.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE