



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 2051 OF 2024

MANISHA YOGESH GADEKAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Shri Baswe Sachin L., Advocate for the Petitioner.

Shri Sunil B. Jadhav, APP for Respondent No.1/State.

Shri Kailas B. Jadhav, Advocate for Respondent Nos.2 to 7.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 25 September, 2025

P. C. :-

1. The petitioner has approached this Court for quashing and setting aside the order dated 31.08.2024 passed by the learned Judicial Magistrate First Class, Aurangabad, below Exhibit 82 in Regular Criminal Case No.1835/2019.

2. On 18.05.2019, the petitioner (Manisha Yogesh Gadekar) had filed FIR No.117/2019 with Begampura Police Station, District Aurangabad, for offences punishable under Sections 498-A, 323, 504, 506 and 34 of the Indian Penal Code against respondent Nos.2 to 7. It was alleged that the petitioner was married to respondent No.2 (Yogesh) on 19.04.2018,

however, soon after marriage, her husband and his family members started harassing the petitioner. It was alleged that they also used to abused her. According to the petitioner, the police conducted investigation and filed charge-sheet on 02.07.2019 and the case is registered as RCC No.1835/2019 before the learned JMFC, Aurangabad.

3. According to the petitioner, the accused persons were granted bail, however, they failed to appear before the Trial Court. It is stated that the accused persons filed the application for exemption from personal attendance. However, the learned JMFC rejected the said application vide order dated 16.03.2024 since accused persons remained absent before the Court. The learned JMFC was pleased to issue Nonailable Warrant against accused persons. Therefore, on 03.06.2024 accused persons filed the application for cancellation of NBW issued against them and by order dated 03.06.2024, the learned JMFC allowed the application and cancelled NBW subject to penalty of Rs.300/- each.

4. In view of aforesaid developments, the petitioner filed application exhibit 82 for canceling and forfeiting bail bond

of the accused persons. It was contended that investigation is over and charge-sheet No.56/2019 was filed on 02.07.2019 before the learned JMFC. Summons were issued against the accused, however, they failed to attend court. Initially, non-bailable warrant was issued and thereafter, accused had appeared before the Court and the matter was proceeded further. It was contended that the accused persons were granted bail on the condition that they will remain present before the Trial Court without fail and had also given sureties in order to execute their bail orders. However, on each date, they were seeking exemptions from personal appearance and on every occasion, they used to remain absent. Therefore, by said application, the petitioner prayed for cancellation and forfeiture of bail bonds.

5. Vide impugned order dated 31.08.2024, the learned JMFC was pleased to reject said application Exhibit 82, thereby, observing that all accused persons are residents of Nashik and their advocate has cross-examined prosecution witnesses in absence of accused. Thus, trial came to be conducted in absence of accused and their non appearance has not caused any hindrance in trial. However, the petitioner is insisting that all

accused must appear in the Court on every date. Such conduct of the petitioner discloses her intention to harass accused persons by compelling them to travel from Nashik to Aurangabad on every date. By such observations, application Exhibit 82 was rejected. Hence, the petitioner has approached this Court by filing this writ petition challenging impugned order dated 31.08.2024.

6. After hearing learned advocates for the respective parties and perusing the available record, it is evident that the proceedings arise out of family discord between the parties. Trial is proceeding further without any inconvenience to the Trial Court. In order to proceed with the matter, there is no point in directing accused persons to attend the court on every date of hearing. Learned advocate engaged by accused persons is attending the court dates regularly and as such, no disturbance is caused to the Trial Court while conducting trial. Therefore, the learned JMFC has rightly observed that even in absence of accused in person, trial is proceeding without any hindrance. By asking accused to attend each and every date of hearing and that too from Nashik, would go to show the intention of the petitioner to harass them. Thus, the prayer made by the petitioner as

regards cancellation and forfeiture of bail bonds is against the law laid down by the Honourable Supreme Court in ***Arnesh Kumar v. State of Bihar, reported in (2014) 8 SCC 273 : AIR 2014 SC 2756*** wherein, directions are issued to the Police authorities not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters flowing from Section 41 of the Code of Criminal Procedure.

7. In view of the above, the petition fails. The Writ Petition is dismissed.

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(SUSHIL M. GHODESWAR, J.)