



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

909 CRIMINAL WRIT PETITION NO. 1685 OF 2025

SADDAM HUSEN AZIZ PINJARI

....Petitioner

VERSUS

JAKIR MOBIN BAGWAN

.....Respondent

Mr. C. B. Chaudhari, Advocate for the petitioner

CORAM : ABHAY J. MANTRI, J.

DATE : 09th DECEMBER, 2025

ORAL JUDGMENT :

1. The petitioner is assailing the orders dated 09-10-2025 passed below Exh. 65 and 66 in SCC No.1134/2021 by the learned Judicial Magistrate First Class, Navapur, whereby the applications seeking permission to examine the witness and permit him to examine the Manager of the HDFC Bank were rejected.

2. The learned advocate for the petitioner vehemently contended that the learned Magistrate has not considered the fact that the accused wanted to examine the witness who is the bank Manager of the HDFC bank. Accordingly, the petitioner has also deposited the witness Bhatta. He further submitted that on 31-12-2024, the accused was directed to pay Bhatta. But he failed to pay the same; it was paid on 19-07-2025. On 19-09-2025, the order of

closure of evidence was passed; therefore, he submitted that the learned Magistrate rejected the said applications without affording the accused any opportunity to adduce evidence. As such, he urged that the orders be quashed and set aside.

3. I have gone through the impugned orders and record, as well as a certified copy of the roznama produced by the learned advocate for the petitioner across the bar. It appears that the complainant closed the evidence on 03-12-2022, and the matter was posted for the recording of the accused's 313 statement. On 11-01-2023, 30-01-2023, 08-02-2023, and 02-03-2023, the accused remained absent; therefore, his statement under Section 313 could not be recorded until 02-03-2023, and on 02-03-2023, a warrant was issued against the petitioner/accused. Pursuant to the same, the petitioner appeared before the court and got the NBW cancelled, subject to payment of the cost of Rs. 100/-. Then the matter was listed on 29-03-2023. On 29-03-2023, the petitioner moved an application under section 311 of the Cr. P. C. for re-calling the complainant for examination. The said application was rejected on 30-09-2023. It also appears that, in the meantime, the proceeding was listed for the recording of the accused's 313 statement. The same could not be recorded due to the petitioner's absenteeism and the filing of an application to prolong the matter. Then again, on 26-07-

2023, the accused remains absent. On 07-10-2023, a statement of the accused under Section 313 was recorded. He filed an application seeking to examine five witnesses. Pursuant to the same, he was asked to provide an explanation. However, he failed to provide an explanation until 06-02-2024. The matter was posted for argument on Exh. 19, 55, 56 & 58. Then again, the matter was pending for argument on Exh. 19, 55 & 56 until 14-10-2024. Then, on 31-12-2024, the learned Magistrate passed the order on Exh. 56 and issued a summons subject to a cost of Rs. 1500/-. However, the petitioner failed to deposit Bhatta on 28-01-2025, 24-02-2025, 24-03-2025, 21-04-2025, 09-05-2025, 29-05-2025 & 02-07-2025, thereby prolonging the matter. Lastly, on 19-07-2025, he has deposited the Bhatta. On 19-09-2025, the respondent-original complainant filed an application to close the evidence because the petitioner failed to adduce any evidence. In the said application, the learned Magistrate has passed an order to close the evidence of the accused, as he failed to make any effort to lead the evidence and is only prolonging the matter. Pursuant to the said order, he again moved an application/s Exh. 65 and 66, and thereby sought permission as stated above. It also appears that the learned Magistrate, after considering the above facts, has rightly observed that the petitioner failed to adduce the evidence despite being granted sufficient opportunity and therefore

rejected the application. It was also observed that since 28-01-2025, the accused has not taken any steps to adduce evidence; therefore, the application was rejected. In such an eventuality, I do not find any illegality or perversity in the said orders. On the contrary, it appears that the petitioner, with an intent to protract the proceedings, has filed various applications before the learned Magistrate, thereby delaying the trial. Thus, it appears that the conduct of the petitioner is an abuse of the process of law. As a result, the petition being devoid of merits, stands dismissed.

4. Inform the learned Magistrate accordingly.

[ABHAY J. MANTRI, J.]

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