



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.55 OF 2025

Jitendrakumar Anilkumar Singh and another

.Vs.

State of Maharashtra and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mrs. Ratna Singh, Advocate for the petitioners.

Mr. A.B.Badar, APP for respondents /State.

CORAM : ANIL L. PANSARE AND

RAJ D. WAKODE, JJ.

DATED : 19.11.2025.

On the previous date following order was
passed.

“ *Heard.*

2. *The petitioners herein had earlier filed two writ petitions bearing Criminal Writ Petition No. 84/2024 and Criminal Writ Petition No. 260/2024. The petitions were filed to get benefit under Section 427 of the Code of Criminal Procedure, 1973 (for short ‘the Code’), which enables the trial Court to pass order as regards running of sentences. According to the petitioners, the sentences in cases in which they were convicted, should run concurrently. These two petitions were disposed of on 18-11-2024 in following terms.*

“1. *Heard.*

2. *The Writ Petitions are disposed of as in view of the Mandate provided under Section 427 of the Code of Criminal Procedure, the petitioners are in agreement that they shall first suffer the sentence in Regular Criminal Case No.21 of 2018 convicted on 06.11.2020 by the Chief Judicial Magistrate, Gadchiroli and thereafter in Regular Criminal Case No.45 of 2018 convicted on*

23.08.2021 by the Chief Judicial Magistrate, Chandrapur along with other eight cases in the very same Court.

3. *As far as the claim for remission in the subsequent offence and the conviction by the Chandrapur Court is concerned, it is open for the petitioners to approach the Jail Authority, seeking remission and in case, the petitioners are aggrieved by the remission granted, it shall be open for the petitioners to approach this Court.*

4. *The Writ Petitions accordingly stand disposed of.”*

As could be seen, the petitioners showed agreement that they shall first suffer the sentence in Regular Criminal Case No. 21/2018 convicted on 06.11.2020 by the Chief Judicial Magistrate(CJM), Gadchiroli and thereafter in Regular Criminal Case No. 45/2018 convicted on 23.08.2021 by the CJM, Chandrapur along with other eight cases. The Court permitted the petitioners to approach jail authorities to seek remission with liberty to approach this Court, if they are aggrieved by the order of remission. Accordingly, present writ petition has been filed seeking direction to respondent no. 3 to comply order dated 18-11-2024 mentioned above and to apply set off to petitioners by the Court of learned CJM, Chandrapur.

3. *Pending petition, it was pointed out that vide order dated 3-2-2023, learned CJM, Chandrapur in Regular Criminal Case No. 70/2018 rejected the application filed by petitioner – Vishal Tulshiram Umare seeking prayer that the sentences in all nine cases in which he has been convicted by CJM, Chandrapur on the same day, should run concurrently. Since the application came to be rejected, it appears that the respondents showed inability to release the petitioners in terms of what was observed by this Court in its order dated 18-11-2024. Accordingly, in present petition, permission was granted to challenge order dated 3-2-2023 passed by learned CJM, Chandrapur.*

4. *There is no dispute that the petitioners were convicted by CJM, Chandrapur in 9 cases and that the order of conviction was passed on 23-8-2021. Thus,*

the learned CJM was aware of the previous conviction awarded by him.

5. *It is, in the aforesaid set of facts, that the petitioners counsel has relied upon the judgment of the Supreme Court in the case of **Iqram Vs. State of Uttar Pradesh and ors. [(2023) 3 SCC 184]** where the learned Sessions Court convicted the appellant therein in 9 Sessions Trials on the same day. The trial Court, however, did not exercise its discretion under Section 427 of the Code. The Supreme Court held that such approach will amount to serious miscarriage of justice. The Court held that all the convictions took place on the same day, thus, the trial Court was aware of the previous conviction and sentence and accordingly, should have issued directions under Section 427 of the Code so as to allow the subsequent sentences to run concurrently. The relevant findings find place in paragraph nos. 10 to 13 which read as under :-*

“10. Section 427 provides that when a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the court directs that the subsequent sentence shall run concurrently with such previous sentence. In other words, sub-section (1) of Section 427 confers a discretion on the court to direct that the subsequent sentence following a conviction shall run concurrently with the previous sentence.

11. *In Mohd. Zahid Vs. State, this Court interpreted the provisions of Section 427 of CrPC after duly considering the precedents in the following terms : (SCC p. 440, para 17)*

“17. Thus from the aforesaid decisions of this Court, the principles of law that emerge are as under

17.1. If a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment, such subsequent term of imprisonment would normally commence at the

expiration of the imprisonment to which he was previously sentenced.

17.2. Ordinarily the subsequent sentence would commence at the expiration of the first term of imprisonment unless the court directs the subsequent sentence to run concurrently with the previous sentence.

17.3. The general rule is that where there are different transactions, different crime numbers and cases have been decided by the different judgments, concurrent sentence cannot be awarded under Section 427 Cr.PC.

17.4. Under Section 427(1) of Cr.PC the court has the power and discretion to issue a direction that all the subsequent sentences run concurrently with the previous sentence, however discretion has to be exercised judiciously depending upon the nature of the offence or the offences committed and the facts in situation. However, there must be a specific direction or order by the court that the subsequent sentence to run concurrently with the previous sentence.”

12. The trial judge, in the present case, granted a set-off within the ambit of Section 428/Section 31 CrPC. No specific direction was issued by the trial court within the ambit of Section 427(1) so as to allow the subsequent sentences to run concurrently. All the convictions took place on the same day.

13. Once the petitioner espoused the remedy of moving a writ petition under Article 226 of the Constitution, the High Court ought to have noticed the serious miscarriage of justice which would occur consequent upon the trial court not having exercised specifically its discretion within the ambit of Section 427(1). When the appellant moved the High Court, he was aggrieved by the conduct of the jail authorities in construing the direction of the trial court to mean that each of the sentences would run consecutively at the end of the term of previous sentence and conviction. The High Court ought to have intervened in the exercise of its jurisdiction by setting right the miscarriage of justice which would occur in the above

manner, leaving the appellant to remain incarcerated for a period of 18 years in respect of his conviction and sentence in the nine Sessions trials for offences essentially under the Electricity Act.”

As could be seen, if a person is already undergoing a sentence of imprisonment and is sentenced on subsequent conviction to imprisonment, such subsequent term of imprisonment would normally commence at the expiry of imprisonment to which he was previously sentenced. Section 427(1) of the Code, however, empowers the Court to issue a direction that all the subsequent sentences shall run concurrently with the previous sentences, however, discretion has to be exercised judiciously depending upon the nature of offence or the offences committed and the facts in situation.

6. *In the present case, the petitioners have been convicted for the offences punishable under Sections 420, 465, 468, 471, 120-B read with 34 of the Indian Penal Code and 66C of the Information Technology Act. The allegations against the petitioners was that they have allegedly used forged ATM cards of different persons and withdrawn the amount from ATM.*

7. *Learned Additional Public Prosecutor (APP) submits that the amount runs into Rs. 1.5 Crores. He submits that in such cases, benefit should not be granted to the petitioners under Section 427(1) of the Code and, therefore, submits that the order passed by learned CJM, Chandrapur should be not set aside. He further submits that the judgment referred by petitioners pertains to offence under the Electricity Act, which are not serious offences. As against, in the present case, the petitioners have, in number of cases, withdrawn public money by using forged ATM cards. The offence is serious in nature and, therefore, no benefit should be extended.*

8. *At this stage, he seeks time to have research on the point. Time granted, as a last chance.*

9. *List the petition on 13-11-2025.”*

2. In response, the counsel for the petitioners instead of placing on record judgments on the issue, seeks permission to withdraw the petition, the purpose having been served. She further seeks liberty to challenge order dated 03.02.2023 passed by learned Chief Judicial Magistrate, Chandrapur in Regular Criminal Case No.70/2018 rejecting the application filed by the petitioner Vishal Tulshiram Umare seeking a prayer of concurrent running of sentences passed in all nine cases against him.

3. We are not impressed by the stand taken by the petitioners. The request of withdrawal is being made once we passed the order dated 11.11.2025.

4. We may note here that at the behest of petitioners, permission to challenge order dated 03.02.2023 mentioned above, was granted by the Court. Accordingly, petition was amended. The hearing continued on insistence of the petitioners.

5. As such, we have noted in our order dated 11.11.2025, by referring to the judgment of Hon'ble Supreme Court in the case of ***Iqram Vs State of Uttar Pradesh and ors. [(2023) 3 SCC 184]***, that if a person is already undergoing a sentence of imprisonment and the sentence on a subsequent conviction to imprisonment, such subsequent term of imprisonment would normally commence at the expiration of the imprisonment to which he was previously sentenced. The Supreme Court held that under Section 427(1) of Cr.P.C. the Court passing sentence is empowered to ensure the direction of all the subsequent

sentences shall run concurrently with the previous sentences, however, discretion has to be exercised judiciously depending upon the nature of offences or the offences committed and the facts in situation.

6. The Supreme Court in the case of ***O.M. Cherian alias Thankachan vs. State of Kerala & Ors.*** reported in ***(2015)2 SCC 501*** while dealing with Section 31 of CrPC observed in paragraphs 20 and 21 as under:-

“20. Under Section 31 CrPC it is left to the full discretion of the court to order the sentences to run concurrently in case of conviction for two or more offences. It is difficult to lay down any straitjacket approach in the matter of exercise of such discretion by the courts. By and large, trial courts and appellate courts have invoked and exercised their discretion to issue directions for concurrent running of sentences, favouring the benefit to be given to the accused. Whether a direction for concurrent running of sentences ought to be issued in a given case would depend upon the nature of the offence or offences committed and the facts and circumstances of the case. The discretion has to be exercised along the judicial lines and not mechanically.

21. Accordingly, we answer the reference by holding that Section 31 CrPC leaves full discretion with the court to order sentences for two or more offences at one trial to run concurrently, having regard to the nature of offences and attendant aggravating or mitigating circumstances. We do not find any reason to hold that normal rule is to order the sentence to be consecutive and exception is to make the sentences concurrent. Of course, if the court does not order the sentence to be concurrent, one sentence may run after the other, in such order as the court may direct. We also do not find any conflict in the earlier judgment in Mohd. Akhtar Hussain and Section 31 CrPC.”

7. As such Section 31 of the Code deals with the sentence in case of conviction of several offences at one trial. However, the Supreme Court has held that under the said provision it is left to the full discretion of the Court to order the sentences to run concurrently in case of conviction for two or more offences. The Court further held that it is difficult to lay down any straitjacket approach in the matter

of exercise of such discretion by the courts. The Court then held that whether a discretion for concurrent running of sentences ought to be issued in a given case would depend upon the nature of offence or offences committed and the facts and circumstances of the case. The discretion has to be exercised along with judicial lines and not mechanically. Accordingly, the Court answered the reference by holding that Section 31 CrPC leaves full discretion with the Court to order sentences for two or more offences at one trial to run concurrently, having regard to the nature of offences and attendant aggravating or mitigating circumstances.

8. Thus, what is important in the ruling is that the full discretion is available to the trial Court to order the sentences to run concurrently or consecutively. In the present case, the trial Court was aware that on the same day he has convicted the petitioner for offences which were similar but were committed at different time and place. Accordingly, trial Court thought it proper to not exercise discretion in favour of petitioner. Therefore, the order of concurrent running of sentences was not passed meaning thereby that the trial Court intended to have sentences to run consecutively.

9. The question before us is whether we should interfere with the discretion exercised by the trial Court.

10. It is well settled that interference by this Court in such discretion will be extremely rare and will be available only if there is an apparent error in exercising judicial discretion by the trial Court. Here, we do not find that trial Court committed any error in not directing

concurrent running of sentences. There is one more reason why we find that the trial Court has not committed any error.

11. The learned APP has pointed out, and right so, that in the case of ***Iqram*** (*supra*), the conviction was for the offences under the Electricity Act, whereas, in the present case the petitioners have withdrawn public money by using forged ATM card. Learned APP submits that this is a financial fraud and can be said to be an economic offence. He has invited our attention to the judgment of Supreme Court in the case of ***Anil Bhavarlal Jain and another Vs. The State of Maharashtra and Ors.*** in Criminal Appeal (Special Leave Petition (Cri) No.10078 of 2023). The Supreme Court while dealing with petition for quashing of First Information Report referred to another judgment and observed thus:

*“Another reference can be made to the judgment of this Court in the case of **Parbatbhai Aahir Vs. State of Gujarat and Anr (2017) SCC Online SC 1189** wherein it was observed that, economic offences involving financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between the private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance. Thus, it can be concluded that economic offences by their very nature stand on a different footing than other offences and have wider ramifications. They constitute a class apart. Economic offences affect the economy of the country as a whole and pose a serious threat to the financial health of the country. If such offences are viewed lightly, the confidence and trust of the public will be shaken.”*

Thus, the Court held that economic offences by their very nature stand on a different footing than other offences and have wider ramifications.”

12. In the present case, the petitioners have on multiple occasions withdrawn public money by using forged ATM Cards and duped innocent citizens. The offences committed by petitioners are definitely serious in nature and therefore, there is no reason to grant benefit of concurrent running of sentences in terms of Section 427 (1) of the Code.

13. The challenge to order dated 03.02.2023 passed by the Chief Judicial Magistrate, Chandrapur, is accordingly, dismissed. Respondent shall accordingly process the case of petitioners in terms of judgment passed by the Gadchiroli Court and Chandrapur, Court.

14. Petitioner No.2 has been released in terms of order dated 14.02.2025 passed by this Court. We accordingly recall said order wherein we have said that petitioner No.2 has completed the sentence. The order was passed under wrong impression and oblivious to the order dated 03.02.2023 passed by C.J.M. Chandrapur. The petitioner No.2 shall surrender before Superintendent of Amravati Prison within 14 days from today, failing which, the respondent No.3 shall approach Jurisdictional Magistrate i.e. C.J.M., Chandrapur for issuing warrant of arrest and shall take further course of action.

15. Petitioner No.1 is said to be on bail, his sentence having been suspended by First Appellate Court. Thus, it appears that petitioners have challenged the order and judgment of conviction. The appeal is pending.

16. That being so, the consequences of the decision in appeal will follow in future. However, in the event appeal is dismissed, the First Appellate Court will be bound by what we have said in today's order as regards running of sentences. The petition is disposed of in terms of above.

17. Learned APP shall serve the copy of order to concerned court.

[RAJ D. WAKODE, J]

[ANIL L. PANSARE, J.]

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