

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 978/2025

(Tejram S/o Hariram Yerpude Vs. The State of Maharashtra)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. Sunita Paul, Advocate for petitioner.
Mr. A. M. Joshi, APP for respondent/State.

CORAM: M. M. NERLIKAR, J.

DATED : 26/11/2025.

Heard.

2. Issue notice to the respondent returnable forthwith. Learned APP waives service of notice to the respondent/State forthwith.

3. I have heard the learned counsel for the petitioner as well as learned APP. The petitioner was enlarged on bail by an order dated 19.06.2025 with a condition amongst other to execute PR Bond of Rs.30,000/- with one solvent surety in the like amount along with other conditions. The learned counsel for the petitioner submits that due to poverty, he was not able to furnish one solvent surety in the like amount and therefore, the petitioner was not released on bail, though the order dated 19.06.2025 was passed. Given the financial condition of the petitioner on application was made before the Court's below for exempting the petitioner from furnishing one solvent surety in the like amount. However, the said application was rejected by an order dated 17.07.2025. She submits that thereafter another application dated 14.08.2025 was

filed stating that as soon as the petitioner would be released, he will furnish solvent surety in the like amount, even that application was also rejected by the Court on 28.08.2025. She invited my attention to the order passed by the Supreme Court in ***SMWP(Criminal) No.4/2021 in the case of In Re Policy Strategy For Grant of Bail decided on 31.01.2023***, wherein the Supreme Court while dealing with the case of under trial prisoners who continue to be in custody despite having been granted the benefit of bail on account of their inability to fulfill the conditions, relaxation has granted by issuing direction Nos. 5,6 and 7.

4. Learned counsel for the petitioner submits that considering the order of the Supreme Court, the Trial Court ought to have considered the request of the petitioner.

5. On the other hand, the learned APP submits that the petitioner has committed serious offence and therefore, the Court below has not accepted the request of the petitioner. He further submits that the petitioner is the accused of Crime No. 6/2025 registered under Sections 109(1), 118(1), 121(2) and 132 of the Bhartiya Nyaya Sanhita, therefore no leniency is required. He conceded that the Supreme Court in the above referred case, has considered the issue positively. However, he submits that considering the nature of accusation against the petitioner, the Court below has rightly passed the order.

6. Upon perusal of the record, it appears that admittedly the petitioner by an order dated 19.06.2025 was granted bail by the learned Additional Sessions Judge,

Gondia in Crime No.6/2025 on the condition of executing PR Bond of Rs.30,000/- with one solvent surety in the like amount.

7. Considering the submissions advanced by the learned counsel for petitioner that though the petitioner got bail on 19.06.2025, he was not able to arrange for the solvent surety. The Supreme Court in the case referred above has dealt with under-trial prisoners who were languished in Jail, despite being granted the benefit of bail on account of their inability to fulfill the condition. After detailed order, wherein the Supreme Court has observed that on the report of NALSA in paragraph No.5, it was reported that 5000 under trial prisoner who were in Jail despite granted bail out of which 2357 persons were provided legal assistance and now 1417 persons have been released and lastly, the Supreme Court in the concluding para has observed as under:-

“5) In cases where the undertrial or convict requests that he can furnish bail bond or sureties once released, then in an appropriate case, the Court may consider granting temporary bail for a specified period to the accused so that he can furnish bail bond or sureties.

6) If the bail bonds are not furnished within one month from the date of grant bail, the concerned Court may suo moto take up the case and consider whether the conditions of bail require modification/

relaxation.

7) One of the reasons which delays the release of the accused/ convict is the insistence upon local surety. It is suggested that in such cases, the courts may not impose the condition of local surety.”

8. Upon perusal of the impugned orders and the order of the Supreme Court, it is crystal clear that though the Court in its common order dated 17.07.2025 has called out the report from the DLSA in respect of economic condition of the petitioner, however that report was not furnished. Meaning thereby, the Court was aware of the fact that the petitioner is not in condition to furnish the solvent surety as observed earlier on 14.08.2025, as an application has been filed stating that after releasing him, he will furnish solvent surety, which ought to have been accepted by the Court below. However, the application was rejected on the ground that there is no change in the circumstances. The Court itself has granted bail by imposing condition in respect of furnishing solvent surety, in respect of relaxation of the condition. As observed by the Supreme Court, it is crystal clear that once the bail is granted, the accused shall not be languished in Jail for not furnishing bail bond or solvent surety. In this view of the matter, I am inclined to allow the petition. Hence, the following order:-

I. The common order dated 17.07.2025 below Exh.7 and 8 and also order dated 28.08.2025 below Exh.9 passed by the learned Sessions

Judge, Gondia are hereby quashed and set aside.

II. The petitioner shall be released on temporary bail for a period of one month. The petitioner shall arrange one solvent surety during this period of one month.

III. If the solvent surety is not furnished within one month from granting of temporary bail, the Court below may *suo motu* take up the case and consider whether the condition of bail requires modification/relaxation.

IV. The other conditions which are imposed by an order dated 19.06.2025 are maintained.

9. Petition stands disposed of in above terms.

(M. M. NERLIKAR, J.)

Gohane