IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 CRIMINAL WRIT PETITION NO. 1445 OF 2026

MUSARRAT JABIN BASHIER AHMED SHAIKH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...

Advocate for the Petitioner : Mr. Lagad Yogesh Hanumant
APP for Respondent/State : Mr. D.J. Patil
...

CORAM : HITEN S. VENEGAVKAR, J.
DATE : 09.10.2026

PER COURT :

. Heard learned Advocate for the petitioners and learned APP for the State.

2. The present Writ Petition is filed challenging the order dated 09.09.2026 passed by learned JMFC, Shrirampur, District Ahmednagar below Exhibit-52 in R.C.C. No.123 of 2026, issuing non-bailable warrants against the present petitioners.

3. A perusal of the impugned order shows that the petitioners have appeared before the learned trial Court on issuance of summons post filing of the charge-sheet and thereafter, the petitioners appeared only after issuance of warrants. As the petitioners were not present and the matter was kept for committal, the learned trial Court proceeded to issue non-bailable warrants on 07.09.2026.

4. When the petitioners came to know about issuance of non-bailable warrants, they preferred an application below Exh.52 seeking

cancellation of the said non-bailable warrants. It was contended in the said application that on 07.09.2026, both the accused were unable to appear before the Court due to serious health issues and medical dispositions. It was also submitted that on 01.08.2026, an exemption application was preferred by the petitioners. The said application is stated to be pending decision. It is contended that the absence was not intentional or deliberate. It is further submitted in the application that accused No.7 is 60 years old and is suffering with serious joint and foot pain. It is further submitted that accused No.6 is 62 years old and is also unwell and undergoing Ultrasonography (USG) and some medical ailment. On account of the same, the petitioners did not remain present before the learned trial Court on the previous date and therefore, they prayed for cancellation of non-bailable warrants (NBW).

5. Learned Advocate appearing for the petitioners advanced arguments before the learned trial Court and submitted that the petitioners are old aged senior citizens suffering from several medical ailment. He argues that the petitioners were technically defaulted only on one date and also there was an exemption application filed on the said date. However, they remained absent only for one day and trial Court issued non-bailable warrant (NBW). He submits that in the interest of justice, the non-bailable warrants be cancelled. They undertake that the petitioners will regularly attend the dates before the trial Court and on any particular date, if they are unable to attend then they will instruct the Advocate appearing for them to file an appropriate exemption application well in advance. They tender an apology for not attending the Court dates regularly due to their ill

health and age factor.

6. Learned APP appearing for the State though initially opposed the prayer. However, he submits that if an undertaking is given to the Court, that the petitioners will attend on the dates assigned for their appearance, then the Court may sympathetically consider the application.

7. I have considered the impugned order dated 08.09.2026 which is signed on 09.09.2026 by the learned JMFC Shrirampur below Exh.52 in R.C.C. No.123 of 2026. The impugned order itself states that the petitioners defaulted in remaining present before the learned trial Court on two dates . The application preferred for cancellation provides a reasonable reason on their failure to attend on the dates before the learned trial Court. I find that these reasons are justified and therefore, I am inclined to allow the Writ Petition with clear directions that the petitioners henceforth will not commit any default in attending the trial dates. In case due to some medical emergency, due to their age factor, they are unable to remain present, then appropriate application for exemption shall be preferred before the trial Court and only after the exemption application is granted, the petitioners can remain absent.

8. In the light of above, the Criminal Writ Petition stands allowed in terms of prayer clause ‘B’ and ‘C’.

9. The impugned order dated 09.09.2026 passed by the learned JMFC, Shrirampur, District Ahemdnagar below Exh. 52 in R.C.C. No.123 of 2026 is quashed and set-aside. Consequently, the non-bailable warrants issued against the present petitioners in the above

referred case are also cancelled.

10. The petitioners shall attend each and every dates of the trial Court without fail. In case of some emergency, if the petitioners are unable to attend the dates before the trial Court, then an application seeking exemption be filed through their Advocate.

11. No order as to costs.

(HITEN S. VENEGAVKAR, J.)

V.S.Joshi