



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 268 OF 2026
IN WP/492/2025

Shivkumar Yadavrao Bachewar

VERSUS

The State Of Maharashtra And Another

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- Mr. Shankar Kendre, Advocate (appointed) for the Applicant
- Ms. P. J. Bharad, APP for Respondent No. 1 – State

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CORAM : MEHROZ K. PATHAN, J.

DATED : 28.01.2026

PER COURT :

1. Heard the appointed counsel and the learned APP for the State.
2. The applicant has approached this Court praying for withdrawal of Criminal Writ Petition No. 492 of 2025 as having become infructuous and for recalling the orders dated 01.08.2025 and 21.11.2025 passed therein, as the same have become non-operative. The applicant has further prayed for quashing of the arrest warrant dated 24.11.2025 issued by the learned Judicial Magistrate First Class, Umri, which was issued solely on the basis of the orders passed in Criminal Writ Petition No. 492 of 2025.
3. It is the submission of the learned appointed counsel that the orders dated 01.08.2025 and 21.11.2025 were passed without the

knowledge of the applicant. The applicant was undergoing imprisonment from 16.01.2025 to 09.08.2025. He came to be released from jail pursuant to the order dated 28.07.2025 passed by this Court in Criminal Application No. 2110 of 2025, subject to conditions imposed therein. In compliance with the said order, the applicant furnished a personal bond in the sum of Rs.15,000/- for release from imprisonment awarded by the learned Trial Court vide judgment dated 10.07.2024 passed in RCC No. 63 of 2023.

4. The order dated 28.07.2025 would show that the substantive sentence imposed upon the applicant by the learned Trial Court in R.C.C. No.63 of 2023, by judgment and order dated 10.07.2024, was suspended. Further, the order dated 11.12.2024 passed below Exhibit-30 in Criminal Appeal No.10 of 2024 by the learned Additional Sessions Judge, Bhokar, on the application for suspension of sentence pending appeal, came to be modified by imposing a condition of furnishing a PR. bond of Rs.15,000/-, while the condition of deposit of fine amount of Rs.50,000/- was suspended till the pendency of the appeal, and the applicant was directed to be released on bail.

5. The imprisonment certificate issued by the Additional Senior Central Jailer indicates that pursuant to the order dated 01.08.2025 passed by this Court, the applicant remained in custody till

09.08.2025. Thus, the fact that the applicant was in jail at the time of passing of the order dated 01.08.2025 stands fortified by the certificate issued by the Central Prison, Chhatrapati Sambhajnagar. The applicant was thereafter released on bail.

6. Thus, the applicant had already been released pursuant to the order dated 28.07.2025. While the applicant was in prison, he had earlier written letters seeking legal aid. Consequently, the Legal Aid Panel Counsel filed Criminal Writ Petition No.492 of 2025 on his behalf, praying for several reliefs, including his release. In the said writ petition, this Court passed an order directing release of the applicant on executing a P.R. bond in the sum of Rs.15,000/- with one solvent surety, considering that the applicant was undergoing imprisonment.

7. It appears that the applicant was earlier undergoing civil imprisonment in execution proceedings under the Protection of Women from Domestic Violence Act, being Execution Proceeding No.03 of 2023, from 20.04.2023 to 18.05.2023, which was extended till 15.01.2025. Thereafter, from 16.01.2025, the applicant was undergoing imprisonment pursuant to his conviction under Section 498-A and other relevant provisions, vide judgment dated 10.07.2024 passed in R.C.C. No.63 of 2023, and he remained in imprisonment till 09.08.2025.

8. Thus, as the applicant was undergoing imprisonment and was unaware of the proceedings initiated on his behalf by the Legal Aid Panel Counsel, Criminal Writ Petition No.492 of 2025 came to be filed, even though the same was not necessary. The writ petition was filed challenging the order dated 19.04.2023 dismissing PWDVA Appeal No.16 of 2022 for default, which was filed against the interim maintenance order dated 11.11.2022 passed in PWDVA No.15 of 2022. The appeal against the interim maintenance of Rs.20,000/- per month had been dismissed for default by the learned Sessions Court vide order dated 19.04.2023.

9. However, the original proceedings under the Protection of Women from Domestic Violence Act had already been finally decided by the learned Judicial Magistrate First Class, Umri, vide order dated 15.02.2023 passed in PWDVA No.15 of 2022, granting final maintenance. A copy of the said order dated 15.02.2023 is tendered at the Bar and marked as 'X' for identification.

10. In view of the final disposal of the original proceedings, the cause of action for filing the writ petition challenging dismissal of the appeal for non-prosecution vide order dated 19.04.2023 in Appeal No. 16 of 2022 did not survive. Therefore, Criminal Writ Petition No. 492 of 2025 ought to have been disposed of as infructuous.

11. Furthermore, the order dated 01.08.2025 was passed when the applicant was already undergoing imprisonment and without knowledge of the fact that he had already been directed to be released vide order dated 28.07.2025 passed in Criminal Application No. 2110 of 2025.

12. In the backdrop of the aforesaid facts and circumstances, it would be expedient to recall the orders dated 01.08.2025 and 21.11.2025 passed by this Court in Criminal Writ Petition No. 492 of 2025, as the cause of action for filing the said writ petition did not survive in view of the order dated 28.07.2025 passed in Criminal Application No. 2110 of 2025 and the order dated 15.02.2023 passed by the learned JMFC, Umri, in PWDVA No. 15 of 2022.

13. Though the aforesaid orders are found to have been passed in ignorance of the earlier order passed by this Court on 28.07.2025 in Criminal Application No.2110 of 2025, as well as the order dated 15.02.2023 passed by the learned JMFC, Umri, nevertheless, in view of the proviso to Section 362 of the Code of Criminal Procedure, criminal courts are not empowered to review their own judgments, except for the purpose of correcting clerical or arithmetical errors.

14. The aforesaid two orders dated 21.11.2025 and 01.08.2025 are substantive orders passed after hearing the parties and, though

passed in ignorance of the earlier order, recalling the said orders dated 01.08.2025 and 21.11.2025 in Criminal Writ Petition No.492 of 2025 would amount to alteration of the judgment, which is strictly prohibited under the provisions of Section 362 of the Code of Criminal Procedure. However, since the warrant came to be issued solely on the basis of the order dated 01.08.2025 passed in Criminal Writ Petition No.492 of 2025, I am inclined to entertain the present application only to the limited extent of the prayer made therein. Hence, the following order:

ORDER

- I. The Criminal Application is partly allowed.
 - II. The warrant dated 24.11.2025 issued by the learned Judicial Magistrate First Class, Umri, for non-compliance of the orders passed in Criminal Writ Petition No. 492 of 2025 is hereby quashed and set aside.
 - III. Since the appeal filed against the conviction of the appellant is pending before the learned appellate court, the learned appellate court is requested to make an endeavour to dispose of the appeal expeditiously and preferably within a period of one year.
15. The Criminal Application is disposed of in aforesaid terms.

16. This Court appreciates the efforts of the learned appointed counsel for the applicant in assisting the Court and putting up the case of the party in person efficiently. Hence, fees of the learned appointed counsel is quantified at Rs.10,000/- and shall be paid by the High Court Legal Aid Services Sub-Committee, expeditiously.

(MEHROZ K. PATHAN, J.)