



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

CRIMINAL WRIT PETITION NO. 104 OF 2026

**DIPAK @JYULI S/O. RAJENDRA CHAVAN
VERSUS
THE STATE OF MAHARASHTRA.**

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Mr. Sajed W. Khan, Advocate for petitioner.
Mr. A.A.A. Khan, APP for respondent.

CORAM : MEHROZ K. PATHAN, J.

DATE : 19th JANUARY, 2026.

P.C. :-

1. The present petition challenges the order dated 12.01.2026 passed by the learned Sessions Judge, Aurangabad in Sessions Case No. 164 of 2025, vide which the permission to extend the time to deposit Rs. 500/- for cancellation of NBW was rejected by the learned Sessions Judge, Aurangabad. The application was filed by the petitioner herein to seek permission to deposit Rs. 500/- as the time had already expired in view of the order dated 9.1.2026.

2. The offence pertains to Section 309(6), 75, 352, 351(2), 238 and 3(5) of the Bhartiya Nyaya Sanhita and Sections 4 and 5 of the Arms Act which is registered at MIDC CIDCO Police Station, wherein, charge sheet is filed and case is registered as RCC No 985 of 2025. The case is already committed to the Sessions Court, Aurangabad and the arrested accused were directed to appear before the Sessions Court on 19.4.2025. The accused No.3 was absent when called. Hence, the Court had issued NBW against accused No.3/petitioner herein vide order dated 16.9.2025. The petitioner suo-motu filed his appearance by moving an application for cancellation of the NBW. The same came to be allowed vide order

dated 9.1.2026 and the NBW was cancelled subject to penalty of Rs. 500/-.

3. The learned counsel for the petitioner submits that the said order was received late in the evening of 9th January, 2026 and 10th and 11th January, 2026 being holidays, the petitioner and his counsel could not comply with the condition of deposit of penalty of Rs. 500/- in pursuance to the order dated 9.1.2026. The petitioner went to deposit Rs. 500 in pursuance to order dated 9.1.2026, however, the office did not accept the same. The application was therefore filed for permission to deposit Rs. 500/-. The application came to be rejected by observing that "Default cannot be cured". The counsel for petitioner, therefore, submits that the NBW is cancelled only in the aforesaid circumstances, and as such, the petitioner may be allowed to deposit the amount of Rs. 500/- as directed vide order dated 9.1.2026. The petitioner undertakes to appear before the learned trial court on each and every date thereafter without any default and would make an application for exemption only in case of any emergency.

4. Per contra, Mr. Khan, learned APP submits that the trial has started. The charge sheet is filed and case is committed to the Court of Sessions. Though the accused were issued summons they have failed to remain present. As such, NBW was issued against the present petitioner. Petitioner's NBW was cancelled on the condition of deposit of Rs. 500/- towards penalty, which he has failed to deposit. The NBW was issued only with an intention to secure the presence of the petitioner before the trial court. The petition is devoid of substance and therefore, liable to be dismissed.

5. I have gone through the orders dated 9.1.2026 and 12.1.2026 passed in the morning session and also in the second session.

The order sheet clearly shows that the NBW was cancelled on the condition of depositing Rs. 500/-. There were holidays on 10th and 11th January, 2026 and as such, on 12th January, 2026 the application appears to have been filed by the petitioner. The application came to be rejected by observing that "Default cannot be cured". The NBW was issued only with an intention to secure presence of the petitioner and the petitioner has given an undertaking to deposit the amount of Rs. 500/- and to remain present on each and every date, except in case of emergency, in which case the petitioner shall seek the permission from the trial court. Taking into consideration the above facts, I am inclined to allow the petition. Hence, the following order :-

ORDER.

- [i] The criminal writ petition is allowed.
- [ii] The impugned order dated 12.1.2026 is quashed and set aside.
- [iii] The petitioner is permitted to deposit the penalty amount of Rs. 500/- within a period of 4 days from the date of receipt of this order. Upon payment of such amount, the NBW issued by the trial court, shall stand cancelled.
- [iv] The petitioner shall attend each and every date of trial and shall seek exemption only in case of emergency, which prayer shall be considered by the trial court on its own merits.

With the aforesaid observations, the criminal writ petition stands disposed of.

[MEHROZ K. PATHAN]
JUDGE.

grt/-