



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

CRIMINAL REVISION APPLICATION NO.181 OF 2025

Devanand s/o Laxmanrao More and another
Vs.

State of Maharashtra, through Officer Incharge Police Station – Digras,
District Yavatmal and another

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

Court's or Judge's orders

Mr. Ayushi Dangre, Advocate for applicants.
Mr. N. B. Jawade, APP for non-applicants/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 14/01/2026

1. Present revision application is preferred by the applicants challenging the order passed by the learned Additional Sessions Judge, Darwaha issuing the non-bailable warrant against the present presents and order passed below Exh.142 by rejecting the application for cancellation of bail.

2. The applicants were arraigned as an accused in connection with Crime No.745/2024 for the offence punishable under Sections 420, 409, 406, 120-B read with Section 34 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interests of Depositors Act, 1999.

3. The applicants were arraigned as an accused on the basis of a report lodged by Rajiya Bano Abdul Rafique on an allegation that along with

her various persons invested the amount at the branches of Digras, Pusad, Darwha and Arni, District Yavatmal of Jansangharsh Urban Nidhi Limited in fixed deposit at the rate of 12 % per annum which was started by one Pranit More. It is further alleged that there was misappropriation of the amount of depositors and the said branches of the bank were closed all of sudden. On the basis of the said report, police have registered the offence against all the Directors of the bank including the present applicants.

4. This Court has considered the application for grant of bail and allowed the application by releasing the present applicants on bail on executing PR bond of Rs.50,000/- each with two solvent sureties in the like amount.

5. After completion of the investigation, the charge sheet is filed and the trial was commenced before the trial Court. Due to the absence of the accused on 30.09.2025, the learned Additional Sessions Judge passed an order issuing the non-bailable warrant against the present applicants, who are the original accused Nos. 4, 5, 8 and 9. The present application is preferred by the accused Nos.4 and 5. On the next day immediately the applicants have preferred an application for cancellation of bail, but the same was also rejected by passing and detailed order. Being aggrieved with the same,

present revision application is preferred by the applicants.

6. Heard learned counsel for the applicants who submitted that only once the applicants were absent and directly the non-bailable warrant was issued which is contrary to the observation of the Hon'ble Apex Court in the case of **Vikas Vs. State of Rajasthan** reported in **(2014) 3 SCC 321**. She submitted that immediately the applicants approached to the Court by assigning the reasons regarding their absence, but that was also not considered and the trial Court swayed away by the fact that the huge amount is involved in the said misappropriation and rejected the application.

7. Learned APP strongly opposed the said contention and submitted that due to the absence of the accused, the trial was held up, and therefore, learned trial Court rightly considered the application.

8. On hearing both sides and on perusal of the entire record as well as the roznama, it reveals that on 30.09.2025 the applicants were absent and therefore, the warrant was issued. It further reveals from the record that immediately on second day, they remained present and assigned the reasons that they were called by the Clerk of the Court and their presence was recorded, and therefore, they left the Court. Thus, they were not intentionally absent

before the Court, but due to the some misunderstanding, they have not appeared when they were called by the Court. It further reveals from the observation of the Hon'ble Apex Court in the case of **Vikas Vs. State of Rajasthan** (referred supra) that in the legislative history for the purposes of bail, the terms "bailable" and "non-bailable" are mostly used to formally distinguish one of the two classes of cases viz. "bailable" offences in which bail may be claimed as a right in every case whereas the question of grant of bail in non-bailable offences to such a person is left by the legislature in the court's discretion to be exercised on a consideration of the totality of the facts and circumstances of a given case. It is further observed that the power under Section 319 Cr.P.C being discretionary must be exercised judiciously with extreme care and caution. The court should properly balance both personal liberty and societal interest before issuing warrants. There cannot be any straightjacket formula for issuance of warrants but as a general rule, unless an accused is likely to tamper or destroy the evidence or is likely to evade the process of law, issuance of non-bailable warrants should be avoided. The conditions for the issuance of non-bailable warrant are reiterated in **Inder Mohan Goswami Vs. State of Uttaranchal** reported in **(2007) 12 SCC 1** and in the case of **State of U.P. Vs. Poosu** reported in **(1976) 3 SCC 1**, wherein it is mentioned that:

"53. Non-bailable warrant should be issued to bring a person to court when summons or bailable warrants would be unlikely to have the desired result."

9. In view of the above observations, the learned trial Court ought to have issued the bailable warrant against the present applicants considering their absence. Moreover, the reason is already assigned by the present applicants before the trial Court, but the trial Court has not considered the same. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is **allowed**.
- (ii) The order below Exh.142 passed by the learned Additional Sessions Judge, Darwha, rejecting the application for cancellation of bail dated 01.10.2025, is hereby quashed and set aside.
- (iii) The non-bailable warrant issued against the present applicants is hereby set aside on the condition that the applicants shall remain present on each and every date without seeking any exemption unless there are exceptional circumstances.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)