

MHWR030009202026



ORDER BELOW BAIL APPLICATION EXH. 13

The present application is filed by the accused Prajwal Raju Shende under Section 480(6) of the B.N.S.S. He sought bail in Crime No. 1615/2025 under R.C.C No. 107/2026 registered for the offences punishable under Sections 316(5) & 318(4) of the B.N.S.

2. Ld. A.P.P. has filed her say on the same application. She objected it on the ground of seriousness of the offences, the fate of evidence and public policy. The concerned informant bank has raised the objection to this application on the ground that, fraud of public money of Rs. 14,11,921/- is done by the accused. This money is of bank. Releasing the accused on bail will hamper the trial. It may result into tampering of the evidence.

3. Ld. advocate of the accused Shri. Motwani submitted that, on 06/11/2025, the Wardha Police registered a case under Section 316(5) & 318(4) of the B.N.S., under the above Crime No. 1615/2026. During the investigation of the said offence, the applicant was arrested on 06/11/2025. On 06/11/2025, the applicant was sent to police custody. On 10/11/2025, the applicant was sent to judicial custody. Since then, the applicant is behind the bars.

4. In this case, the applicant is again filing a bail application before the present Court. The reason for this is that, there has been a change in the circumstances between the time of filing the previous bail application and the time of filing the present application. Therefore, the applicant has filed the said application under Section 480(6) of the B.N.S.S. The Ld. Advocate for the accused further argued that, there has been a change in the circumstances. Because the charge has been framed against the applicant on 28/04/2026. Since then, no witness has been examined in the said case till present date. Therefore, more than 90 days have passed since the charge was framed in the said case and the examination of witnesses has not started. Hence, prayed for release on bail.

5. The applicant relied upon Arvind Dham .Vs. Directorate Of Enforcement, decided 06/01/2026. It was held in this case that, in view of 210 witnesses needs to be examined, absence of likelihood of commencement of trial in near future keeping the accused behind the bar, in view of documentary evidence available on the record, is violation of Article 21 of the Constitution of India.

6. Whereas, the Ld. Counsel for the accused further relied on the citation of the Hon'ble Supreme Court in Subhelal @ Sushil Sahu Vs. The State of Chattisgarh, Cr. Appeal no. 818/2025 decided on 18/02/2025. In this case, the Hon'ble Supreme Court held that, in view of right of fair and speedy trial,

the accused is entitled for the bail in case the evidence is not completed within 60 days of framing of the charge. Simultaneously, four criterias to invoke section 437(6) of the Cr.P.C. those are as follows - 1. reason for delay in concluding trial within 60 days from framing of the charge shall not be attributed to the accused. 2. Chance of the accused tampering the evidence. 3. Chance of the accused to be getting absconded and 4. The accused custody in this whole period. In view of these criterias the Hon'ble Court specifically held that, any of the above facts and situation and any of the similar fact situation is affirmative, then it will be fatal to the rights of the accused. In the same judgment the Hon'ble Court held that, the powers under section 437(6) of the Cr.P.C., are discretionary and subject to the reason.

7. **Satish Rathi Vs. State of Maharashtra (2026 BHC NAG:6092)**, Section 437-A of the Cr.P.C. does not confer the indefeasible right of bail it is directly not mandatory.

8. Learned A.P.P opposed the application and submitted that, the offences alleged against the accused are serious in nature involving criminal breach of trust and cheating of huge amount of Rs. 14,11,921/-. Though, the 90 days have lapsed from first date fixed for evidence the bail under section 480(6) of the B.N.S.S. is not mandatory in every case. The accused is involved in a serious non-bailable offences and there is likelihood of absconding as well as tampering with the prosecution evidence

and influencing witnesses.

9. The Ld. A.P.P further argued that, the delay in the trial is not only attributable to the prosecution and there is *prima facie* evidence against the accused. Hence, prayed for rejection of the application.

10. Heard Ld. Adv. Shri. S.S. Chandan on behalf of the objector i.e. the bank. He argued as per his written objection.

11. Perusal of the record shows that, the applicant/accused is facing trial for offences punishable under Sections 316(5) & 318(4) of the B.N.S. The allegations against the accused are serious in nature and pertain to misappropriation and breach of trust. The material on the charge-sheet *prima facie* discloses involvement of the accused in the alleged offences.

12. It further appears from the record that, earlier bail application of the accused came to be rejected on merits by this Court on 11/12/2025. Thereafter, on filing of the charge-sheet charge was framed against the accused on 28/04/2026. Subsequently, on 06/05/2026 there was another bail application filed by the present accused. The main contents of that application was as the charge was framed the trial has already commenced there is no necessity of the accused in the present crime. The list of 38 witnesses is provided by the prosecution. Trial is time consuming. Meanwhile keeping the accused in the

custody is of no use. Hence, he was prayed to be released on bail. This application is on Exh. 09 and it was rejected on 20/06/2026 by this Court itself with detailed order.

13. Now, the applicant is before this Court with present application under section 480(6) of the B.N.S.S. as the trial of the accused did not conclude within 60 days of the framing of the charge, he has right to be released on bail under section 480(6) of the B.N.S.S.

14. Both of these applications though framed in different verbatim but means the same. Its fundamental claim is pertaining to the change in circumstances on count of framing the charge and trial may consume the time therefore, the accused be released. No doubt, Exh. 09 was filed on 06/05/2026. At that time, 60 days were not lapsed which are lapsed at the time of filing present application. But the fundamental content is the release of the accused in view of change in circumstances.

15. In view of the legal position and the arguments of the Ld. Counsel Perusal of the record shows that, the applicant/accused is facing trial for offences punishable U/s. 316(5) & 318(4) of the B.N.S. The allegations against the accused are serious in nature and pertain to misappropriation and breach of trust. The material on the charge-sheet *prima facie* discloses involvement of the accused in the alleged offences.

16. It further appears from the record that, earlier bail applications of the accused came to be rejected on merits by this Court. In the present matter there is no substantial change in circumstances warranting reconsideration of the request for bail. On the contrary, the present offence reflects to be economical offence. It is misrepresentation of public money. Report disclose that, the applicant/accused Prajwal Shende had entices the rustics and poor people for getting additional loan which they don't require and kept that loan amount as well as some of the E.M.I. with himself and used it for his own personal requirement on false assurance. The *modus operandi* is very lubricative. The case is based on documentary evidence. The accused already had experience to play with the documents and needs of the public at large. The entire material before this Court reflects the facts and circumstances which affects the society and their financial interest.

17. Though Section 480(6) of the B.N.S.S. provides for release of an accused on bail where trial is not concluded within 60 days from the first date fixed for taking evidence, the said provision is not mandatory in nature and discretion is vested in the Court to refuse bail by recording reasons. The provision itself empowers the Court to direct otherwise for reasons to be recorded.

18. In the present matter, the offences alleged against the accused are grave and involve breach of fiduciary trust and

cheating. The record indicates that, the trial could not be concluded within the stipulated period for reasons not solely attributable to the prosecution.

19. The present accused from vicinity within the jurisdiction of this Court. He has nexus with the local people. Though the material documents are on the record in the present case, near about 10 to 20 witnesses are also there, who are rustic and exploited economically. Releasing the accused at the stage when evidence had already commenced, may result into tampering and influencing the witnesses. Further, merely because the accused has habitation in Wardha cannot be considered as the secure proof of his presence in the present matter. The accused who is at the age of 25 years could manage so many people at one instance to do the fraud upto the extent of 14 Lakh rupees, his the chance of getting absconded cannot be denied. If the accused is granted bail, there is a strong possibility that he will abscond permanently. Further, the chance of the accused tampering or fabricating the evidence cannot be denied.

20. In view of the judgment of the Hon'ble Apex Court ***Subhelal*** (*cited supra*) the discretion is limited upto the extent of absconding of the accused and tampering of the evidence, the another judgment ***Sathish Rathi*** (*cited supra*) provides the ground of justice also. In the present case, the role of the present accused is very much expressed in the charge-sheet. He was the only person who came into contact with all the witnesses and did

all the documentation. His fraudulent conduct enhance the opportunity of his getting absconded, tampering and influencing the witnesses and evidence which cannot be ruled out only on the basis of habitation of the accused in the vicinity.

21. Further, the charge of this matter is already been framed. The summons are issued, trial is in pipeline, therefore, the present matter is out of the precedent of the Hon'ble Supreme Court in ***Arvind Dham*** (*cited supra*). In that case 210 witnesses was there and trial was not commenced and there was no likelihood to commenced in future. Contrary in the present case, trial commenced and proceeded upto fundamental level. Summons are already issued. Therefore, this Court is of the opinion that, this precedent is not applicable to present facts and circumstances.

22. Considering the seriousness of allegations, antecedents of repeated bail applications, and the possibility of prejudice to the trial, this Court is of the opinion that, this is a fit case to exercise discretion against the accused-applicant on the ground as mentioned above. Further, the element Nos. 2 and 3 i.e. chance of tampering of evidence and chance of getting absconded, is affirmative in favour of the accused. Thus, the claim of the applicant-accused to get released on the bail does not cover under the purview of above judgment. This Court is of the opinion that, the applicant-accused is not entitled to be released on bail under section 480(6) of the B.N.S.S. Hence, the

following order -

ORDER

The application (Exh. 13) stands rejected.

Wardha.
Date : 28/07/2026

(Smt. M. R. Chavan (Hiwarale))
Judicial Magistrate First Class,
(Court no. 2), Wardha.

R.C.C. No. 107/2026
State .Vs. Prajwal Shende

Certified that PDF copy of Order supra is word-to-word identical to the original Order.

(I.K.Khan)
Stenographer Grade-II