

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Application No.1163 Of 2015.

RAVI S/O SUGRIV KATKADE.
VERSUS
THE STATE OF MAHARASHTRA.

Appearance =>

Mr. Pathan Hamzakhan, Advocate for the Applicant.

Mrs. Pratibha Bharad, Additional Public Prosecutor for the State of Maharashtra.

Coram : V.M. Deshpande, J.

Date : 25th March, 2015.

Per Court :-

Present Applicant is the accused in Special Case No.12/2014 pending on the file of the Special Judge, Latur, Dist. Latur.

[2] Charge is already framed against the present applicant on 31/10/14. It appears that, matter was fixed on 17th January, 2015 for adducing the evidence. On the said date, present applicant remained absent before the court and moved an application through his Advocate seeking adjournment, citing reason that there is death of his relative and he was required to attend the funeral, thereby, causing his absence before the court. On the said date itself, the learned Judge of the court below has rejected the prayer and straightway issued the Non-Bailable-Warrant against the applicant.

[3] In execution of the said Non Bailable Warrant, the applicant was arrested and he was produced before the court on 23/01/2015 and he was taken into custody.

[4] On 29th January, 2015 application for bail was moved by the present application giving reason about his absence on 17/01/2015. Said application was rejected by the learned Judge of Court below on 6th February, 2015 by passing most cryptic order.

[5] Heard Mr.Hamzakhan Pathan, learned counsel for the Applicant and Mrs.Pratibha Bharad, learned Additional Public Prosecutor for the State.

[6] It is not in dispute that during pendency of the trial, the applicant-accused was already released on bail, by the Sessions Court. It appears that on 17/01/2015 the applicant was absent before the court. The applicant has already given reason for his absence before the Court. Adjournment application was also filed citing the reason, as there is death of his relative and he was required to attend the funeral. The learned Judge of Court below has rejected the said application.

[7] Rejection of adjournment application is a prerogative of the learned Judge of court below but at the same time he ought not to have straightway issued the Non-Bailable-Warrant against the applicant in view of the fact that, the applicant was required to attend the funeral on the said date. The leaned Judge of court below could have order to issue Bailable Warrant against the applicant-accused or to forfeit the surety.

[8] Be that as it may be, the applicant was produced before the court in execution of Non-Bailable-Warrant. His application for grant of bail was rejected by the Judge of Court below on the ground that, he is not co-operating in the trial and if he is released on bail, he will try to delay the trial. The learned Judge of court below has rejected the application on his own imagination and surmises. Judicial orders on such foundation cannot

stand to the scrutiny. Hence, impugned order needs to be set aside and the applicant is required to be released on bail. Hence, I pass the following order :-

ORDER

- (i) Criminal Application is allowed.
- (ii) Order dated 06/02/2015 passed by the learned Special Judge, Latur below application Exhibit – 33 in Special Case No.12 Of 2012 is set aside.
- (iii) Applicant – Ravi Sugriv Katkade is directed to be released on bail on he executing P.R. Bond of Rs. 5,000/- [Rs.Five Thousand] before the learned Special Judge, Latur, who is conducting the trial of Special Case No.12/2012.
- (iv) It is made clear that, the applicant shall not indulge himself in any activity by which the trial of Special Case will be prolonged.

(V.M. DESHPANDE, J.)