

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

**CRIMINAL WRIT PETITION NO. 440 OF 2015**

Kondiram Baburao Saruk .. Petitioner  
Age 59 years, Occ. Pensioner,  
R/o. Vyankatesh Nagar, Aurangabad.

Versus

The State of Maharashtra .. Respondent

Mr. S.B. Bangar, Advocate for the petitioner.  
Mr. S.G. Nandedkar, APP for respondent/State.

**CORAM : SMT.SADHANA S. JADHAV, J.**  
**DATED : 08.04.2015**

**ORAL JUDGMENT :-**

1. Heard. Rule. Rule made returnable forthwith with the consent of the parties.

2. The petitioner herein is facing prosecution for the offences punishable under section 420, 409, 468, 471 read with 34 of the Indian Penal Code in R.C.C. No.1997 of 2014, pending before the Court of Chief Judicial Magistrate, Aurangabad. It appears from the averments in the petition that the charge-sheet was filed on

30.09.2008 before the learned Judicial Magistrate, F.C., Sillod. The matter was transferred to the Court of the C.J.M., Aurangabad. Learned C.J.M., Aurangabad, has issued non-bailable warrant against present petitioner on 26.02.2014. Learned Counsel for the petitioner submits that the matter was transferred to the Court of C.J.M., Aurangabad. On 27th March, 2015, the petitioner had filed an application before the C.J.M., Aurangabad, requesting the Court to take the matter on Board as the petitioner desires to file an application seeking cancellation of non-bailable warrant. Learned Court has rejected the said application on the same day by observing that there is no urgency.

3. Learned Counsel for the petitioner submits that the petitioner had not received any summons or notice from the C.J.M., Aurangabad and therefore had no knowledge that the matter was transferred to the Court of C.J.M., Aurangabad and hence according to learned Counsel, learned C.J.M. ought not to have rejected the said application. Learned APP submits that the application filed by the petitioner below Exh.328 ought to have been accompanied by an application seeking cancellation of bail. However, in the absence of any such application, learned C.J.M. has rightly rejected the said application.

4. Taking into consideration the facts of the case, the petitioner deserves to be protected till 23.04.2015. The petitioner shall appear before the C.J.M., Aurangabad on 23.04.2015 and file an application seeking cancellation of non-bailable warrant. Till then, the execution of order dated 26.02.2014 is stayed. It is made clear that in the eventuality the petitioner does not appear before the concerned Court on 23.04.2015, the order dated 26.02.2014 would take effect.

5. Rule is made absolute in above terms. The Criminal Writ Petition stands disposed of.

**[SMT. SADHANA S. JADHAV, J.]**