

Krishna Mohan Singh		Applicant
Vs.		
The State of Maharashtra		Respondent

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punishable under Section 379 r/w Section 34 of the IPC. The said FIR was registered with the Marine Drive Police Station, Mumbai. The applicant was arrested and subsequently enlarged on bail on 18-7-2008. When the matter came up for trial, before the learned Metropolitan Magistrate, the learned Metropolitan Magistrate was pleased to issue NBW on 8-11-2008 as the applicant had failed to appear before the learned Magistrate. Pursuant to the said NBW which was issued, the applicant came to be re-arrested on 8-1-2015. The applicant preferred an application seeking his enlargement on bail being Exhibit-7. In the said application, amongst other reasons, it was stated that the applicant had gone to his native place and hence was unable to attend the Court. The learned Metropolitan Magistrate vide order dated 9-1-2015 was pleased to reject the said application, observing that the accused

had jumped bail and considering his conduct, it was not a fit case to enlarge him on bail. The said order was challenged by the applicant before the Sessions Court and the learned Additional Sessions Judge vide order dated 14-1-2015 was pleased to reject the said application. The learned Additional Sessions Judge, while rejecting the application had observed that the offence was of 2008 and that the applicant was mischievously remaining absent, as a result of which charge could not be framed. The learned Judge further observed that the applicant had misused the bail. The said order rejecting the bail has been impugned in the present application.

4. The learned counsel for the applicant states that the alleged offence is of 2008, wherein the applicant is alleged to have committed a theft of Rs.4500/-. He submits that

the applicant is ready to co-operate with the conduct of the trial and will give an undertaking to the Court to that effect.

5. The learned APP, on the other hand, submitted that as the applicant had failed to attend, the trial could not commence. She submits that in fact, the ration card which was submitted by the applicant was forged and fabricated. She submits that the concerned officer will be initiating appropriate action for the same, as against the applicant.

6. Perused the application. The incident is of 2008 and as rightly observed by both the Metropolitan Magistrate as well as the learned Additional Sessions Judge, the applicant had deliberately failed to remain present, as a result of which the trial could not commence. The conduct of the applicant shows that he had

failed to appear before the trial Court. His non-appearance before the trial Court, resulted in the Court issuing NBW for the arrest. As a result of the issuance of the NBW, the police authorities had to take all efforts to locate the applicant and apprehend him. Although, no fault can be found in the orders rejecting the applicant's bail, only by way of indulgence and by way of one last opportunity, considering the fact that the applicant is ready to give an undertaking before the trial Court, that he will attend on every hearing of the case and will not seek any adjournment, that the present application is being considered. It is also noted that the offence is one of under Section 379 r/w Section 34 of the IPC, i.e. theft of Rs.4500/-, and that despite his re-arrest on 8-1-2015 till today charge has not been framed in the said case. Accordingly, the applicant is released on bail on the following terms and

conditions:

(i) The applicant be released on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two local sureties in the like amount.

(ii) The applicant shall attend the concerned police station i.e. Marine Drive Police Station on every Saturday between 10:00 a.m. to 12:00 noon, till the disposal of his case in the trial Court.

(iii) He shall not leave Mumbai and Thane Districts without the permission of the trial Court.

(iv) He shall co-operate in the conduct of the trial and will attend on every date given by the trial Court. It is also made clear, that

neither the applicant nor his Advocate will seek any adjournment and will co-operate with the trial Court for the disposal of the case, which is of the year 2008.

(v) The applicant shall furnish his address as well as his contact number, both to the concerned police station as well as to the Court seized with the case and if there is any change in the address or the contact number, the same shall also be immediately communicated to the PI, Marine Drive Police Station as well as the Court seized with the case.

(vi) An undertaking with regard to the aforesaid clauses (i) to (v) will be filed before the trial Court, within one week of his release, by the applicant.

(vii) If there is breach of any of the

undertakings, the prosecution will be at liberty to seek cancellation of the applicant's bail.

7. The application is allowed in the aforesaid terms and accordingly stands disposed of.

(REVATI MOHITE DERE, J.)