

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

CRIMINAL WRIT PETITION NO.4998 OF 2015

Yasin Abdul Hasim Shaikh @ Aldar ..Petitioner
V/s.
The State of Maharashtra .. Respondent

Mr.Aniket Vagal for the Petitioner.
Mr.Ajay Patil APP for the Respondent-State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : DECEMBER 22, 2015.

P.C.

1. Heard. Rule made returnable forthwith with the consent of the parties. The applicant herein is an accused in Criminal Case No.615/PW/2014 pending before the Court of Metropolitan Magistrate, 57th Court, Kurla. The applicant herein is the prosecuted for the offences punishable under sections 420, 504 and 506 read with section 34 of Indian Penal Code. The applicant was in custody. The applicant was enlarged on bail by an order dated 09th April 2014. At that time the charge-sheet was not filed. The charge-sheet was filed on 11th April, 2014. The learned counsel for the applicant submits that the schedule date before the Court of Metropolitan

Magistrate was 23rd November 2015. However, his wife was admitted in the hospital. She was at an advanced stage of pregnancy. On 23rd November 2015 the applicant could not remain present before the Court. Notice was issued to the sureties. The wife of the applicant has delivered a child on 24th November 2015. The applicant is not yet represented by any lawyer before the trial Court. He had no knowledge that on 09th February 2015 the trial Court had issued non-bailable warrant against the applicant. In fact he had informed about the change in address. However, inadvertently the office had not brought it to the notice of the executing authorities and hence the applicant had no knowledge the non-bailable warrant issued against him.

2. The learned counsel for the applicant submits that the applicant would cause his personal appearance before the Metropolitan Magistrate on 29th December 2015 and till then non-bailable warrant be stayed. The prayer deserves to be granted in the peculiar circumstances. Hence the order.

ORDER

(i) Rule is made absolute.

(ii) The applicant shall remain present before the Metropolitan Magistrate on 29th December 2015, till then the non-bailable warrant issued vide order dated 09th February 2015 is stayed.

(iii) The failure of the applicant to cause his appearance before the Court on 29th December 2015 the order dated 09th February 2015 passed by learned Metropolitan Magistrate shall take immediate effect.

(iv) Writ Petition is disposed of in above terms.

(v) Parties to act on authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J.)