

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 637 OF 2016

DHANANJAY MANIKRAO DESHMUKH & ORS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Petitioner : Shri Rathi Swapnil S.
APP for Respondent : Shri Kendre S.N.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 13, 2016
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PER COURT :-

1. The petitioners are aggrieved by the order dated 10.3.2016 passed by the learned Additional Sessions Judge, Gangakhed, by which the application Exhibit 144 filed by the petitioners in S.T. No. 21 of 2012, seeking cancellation of the non-bailable warrant dated 3.5.2016, has been rejected.
2. I have heard Shri Rathi, learned Advocate for the petitioners and the learned APP for the State.
3. Shri Rathi has placed reliance upon an unreported order of this Court, delivered in Criminal Writ Petition No.4429 of 2013, (Arunkumar N. Chaturvedi Vs. State of Maharashtra and others) dated 24.12.2013, to support his contention that an accused who seeks cancellation of a non-bailable warrant is not required to remain personally present in the Court and his Advocate is competent to seek a hearing and orders on the said application.
4. Notwithstanding the above, ends of justice would be met if the impugned order is set aside and the application Exhibit 144 is posted for rehearing before the learned Additional Sessions Judge, on a date on which the petitioners would remain present before the Court.

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5. In so far as petitioner No.2 is concerned, it is stated that he is suffering from serious ailment and is continuously admitted in a hospital. If that be the case, petitioner No.2 is not precluded from filing a medical certificate issued by a responsible authority of the hospital, in which he is admitted, indicating that he cannot be discharged so as to remain present before the Court.

6. In the light of the above, this petition is partly allowed. The impugned order dated 10.3.2016 is quashed and set aside and application Exhibit 114 is restored to the file of the learned Additional Sessions Judge in S.T. No. 21 of 2012.

7. The petitioners shall remain present before the concerned Court on 30.6.2016 at 11.00 a.m. As observed above, if petitioner No.2 is unable to be discharged from the hospital to enable him to remain present before the Court, the medical certificate issued by the responsible authority of the hospital be filed before the concerned Court, which shall hear the application Exhibit 114 afresh.

(RAVINDRA V. GHUGE, J.)

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