

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

Criminal Application No. 4033 of 2016

District : Aurangabad

Syed Farooq s/o. Syed Rasheed,
Age : 30 years,
Occupation : Labour,
R/o. Near Sadatnagar,
Hidayatnagar, Waluj,
Taluka & Dist. : Aurangabad. .. Applicant.

versus

The State of Maharashtra. .. Respondent.

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*Mr. Shaikh Ashpak Taher Patel, Advocate, for
the applicant.*

*Mr. S.J. Salgare, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 24TH AUGUST 2016

ORAL ORDER:

Heard the learned Counsel appearing for the applicant / accused. He argues that because of family problem, the applicant was unable to attend the Court which has resulted into issuance of non-bailable warrant and consequent arrest of the applicant.

2. The learned Addl. Public Prosecutor opposed the application.

3. Perused the charge-sheet. The incident is of the year 2007. FIR in Crime No. I-104/2007 for the offence punishable under Section 307 of the Indian Penal Code came to be lodged on 22.08.2007 with Police Station Waluj, District Aurangabad. Perusal of the order dated 02.07.2016 passed by the learned Addl. Sessions Judge, Vaijapur, below Exhibit 90 in Sessions Case No. 17 of 2012, shows that in the said old matter which was part heard, the applicant remained absent not only on one occasion but on several occasions. On many occasions, the learned trial Court had shown indulgence by canceling non-bailable warrant issued against him. However, from 13.04.2016, the applicant / accused was absent and ultimately he was brought before the Court upon execution of non-bailable warrant. The trial is protracted merely because the applicant is not cooperating the trial Court.

4. Condition for releasing the applicant on bail is his availability for trial. The impugned order shows that the applicant is not available for trial. Hence, the learned Addl. Sessions Judge rightly refused to exercise his discretion in releasing the applicant on bail again. No infirmity

can be found with the impugned order which is sought to be quashed by the present application. Similarly, I do not find any reason to release the applicant on bail as this Court is not assured about availability of the applicant for trial.

5. Hence, the Application is rejected.

(A.M. BADAR)
JUDGE

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