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

CRIMINAL APPLICATION NO.6823 OF 2016

Shaukat Khan s/o Ramzan Khan,
Age : 30 yrs., occ. Driver,
R/o Sadat Nagar, Galli No.12,
Railway Station, Aurangabad

..APPLICANT

VERSUS

The State of Maharashtra,
Through Osmanpura Police Station,
Aurangabad

..RESPONDENT

Mr Rameez M. Shaikh, Advocate for applicant;
Mr A.V. Deshmukh, Addl. Public Prosecutor for respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 22nd December, 2016

ORAL ORDER

Heard.

2. Applicant seeks his release on bail, in connection with C.R. No.I-253 of 2009, registered at Osmanpura police station, Aurangabad (now registered as R.C.C. No.2080 of 2009), for offences punishable under Sections 420 and 468 of the Indian Penal Code.

3. This arrest has been effected pursuant to non-bailable warrant issued by the learned Magistrate on account of absence of the applicant before whom he is being tried.

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4. The applicant is facing trial in connection with C.R. No.253 of 2009, which is being tried by the learned Judicial Magistrate First Class. As the applicant was absent since 28th March, 2013, non-bailable warrant came to be issued for securing his presence. It appears that the applicant appeared before the Court on 11th November, 2016 and on the same day his application for cancellation of warrant was rejected and he was taken in custody. The learned Sessions Judge thereafter rejected the application for release on bail on 21st November, 2016.

5. It is submitted by the learned Counsel for the applicant that absence of the applicant was not intentional. He being employed as a Driver, he was required to travel to various places and hence, he could not contact his Lawyer. It is submitted that applicant is willing to furnish an undertaking with the Trial Court to ensure his regular attendance.

6. The application is opposed by the learned Addl. Public Prosecutor by submitting that the applicant was absent for considerable period of time. The trial was delayed due to absence of the applicant. It is, therefore, submitted that application deserves to be rejected.

7. The record indicates that the trial before the learned Magistrate has commenced and two witnesses have been examined. On account of absence of the applicant, further progress in the trial has been affected. Considering the fact that on issuance of non-bailable warrant the applicant has appeared before the Trial Court and has shown willingness to co-

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operate in the completion of the trial, I am inclined to allow the present application, subject to imposing appropriate conditions.

8. The applicant, who has been arrested in connection with C.R. No.I-253 of 2009, registered at Osmanpura police station, Aurangabad (now registered as R.C.C. No.2080 of 2009), for offences punishable under Sections 420 and 468 of the Indian Penal Code, is directed to be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

- (i) The applicant shall file an undertaking before the Trial Court within a period of one week from his release that he would attend the proceedings of said trial on each date.
- (ii) It is made clear that absence of the present applicant on any dates before the Trial Court would render his liberty being forfeited.

Application is allowed in above terms.

(A.S. CHANDURKAR, J.)

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