

FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1222 OF 2016

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.S.Khandeparkar with Lokesh Zade i/by Khandeparkar & Associates for the Petitioners.

Mr. Deepak Thakare, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 22nd March, 2016

P.C.

This is a petition for cancellation of warrant issued by the Metropolitan Magistrate, 61st Court, Kurla, Mumbai in CC No.100/SW/2013.

2) The learned counsel for the petitioners submitted that the Advocate who was attending the said case incorrectly recorded the date in his diary and therefore, could not remain present on 16.2.2016 before the Trial Court. As the petitioners and their Advocate remained absent on 16.2.2016, the Trial Court issued non bailable warrant against respondents 2 and 3 making it returnable on 30.3.2016. The learned counsel for the petitioners further contended that the application for cancellation of warrant was moved immediately but the learned Magistrate refused to take it on record stating that the date given for appearance is 30.3.2016. The specific pleading to that effect has been made in Para 11 of the

present petition. In view of the same, the order dated 16.2.2016 passed by the learned Metropolitan Magistrate thereby issuing non bailable warrant against the respondent Nos. 2 and 3 is stayed upto 30.3.2016.

3) It is further submitted that Petitioner No.2 is suffering from Renal failure and is on dialysis. That, his health condition is precarious and is unable to attend the court physically. In view of the same, Petitioner No.2 is hereby permitted to file an application for exemption before the Magistrate on 30.3.2016. The learned Magistrate to consider the same after taking into consideration the medical condition of petitioner No.2.

As far as petitioner No.3 is concerned he shall remain present on 30.3.2016 before the concerned Magistrate and file an application for cancellation of non bailable warrant. The concerned Magistrate is hereby directed to decide the said application on its own merits on the same day.

3) Petition is disposed off in the aforesaid terms.

(A.S. GADKARI, J.)