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

CRIMINAL APPLICATION NO.506 OF 2016

Vinay Kumar Kothari son of Ramesh Kothari	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr.S.S.Manjrekar, i/b Mr.Daljit Singh Ramkaran Phogat, for the Applicant.

Ms.Anamika Malhotra, A.P.P for the Respondent No.1 -State

Mr.S.H.Joshi, for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.

DATE : 16th NOVEMBER, 2016

P.C. :

1. Heard learned counsel for the parties.

2. By this application, the applicant has impugned the order dated 5th April, 2016, passed by the V Joint Civil Judge and Judicial Magistrate First Class, Ulhasnagar in SCC No.70 of 2009, by which the applicant's application, seeking cancellation of NBW came to be rejected.

3. Learned Counsel for the applicant submitted that the NBW

came to be issued as against the applicant because of the fault of the Advocate who was conducting his case and as the Advocate failed to appear. He submitted that the applicant is ready to co-operate in the conduct of the trial and undertakes to appear on every date of the hearing in the trial Court.

4. Learned Counsel for the respondent no.2 has no objection to the cancellation of the NBW. He submits that the matter is posted for recording the 313 statement of the applicant and requests that the trial be expedited, since the case is of 2009.

5. Perused the papers. There seems to be some substance in the submissions advanced by the learned counsel for the applicant resulting in the failure of the applicant attending the trial Court. Learned Counsel for the respondent no.2 also has no objection to the cancellation of the NBW.

6. Considering the aforesaid, the application is allowed and the impugned order is quashed and set aside and the NBW issued as against the applicant (original accused no.6) is also quashed and set aside. The

applicant shall appear before the trial Court on every date of hearing given by the trial Court. The applicant to file a undertaking stating the aforesaid in the trial Court, within one week from today. Since the case is of the year 2009, the trial Court shall make an endeavour to decide the case, as expeditiously as possible, and preferably within three months from the date of receipt of this order.

7. The Application is accordingly disposed of on aforesaid terms.
8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.