

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

CRIMINAL APPLICATION NO.2090/2017
IN
CRIMINAL APPEAL NO.53/2005

MUKESHKUMAR BALCHAND SAINY
VERSUS
STATE OF MAHAHARASHTRA.

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Advocate for Applicants : Mr.P.P. Chavan
APP for Respondents/State : Mr.A.D. Nande.

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CORAM : V.L. ACHLIYA, J.
Dated: APRIL 21, 2017

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Applicant has moved this application seeking cancellation of non bailable warrant issued against him.

2. Heard learned Counsel for applicant and APP for the State. In nutshell, it is contention of learned Counsel for applicant that applicant had not absconded. He submits that applicant secured job at Delhi and, therefore, he shifted to Delhi. He is working as Project Manager with a construction company. He submits that looking to the

fact that applicant has not deliberately avoided to attend the Court and avoided to receive notice and warrant, the non-bailable warrant issued against him may be cancelled. He further submits that applicant is ready and willing to abide any conditions that may be imposed in the event of cancellation of non-bailable warrant and recall of order to issue non-bailable warrant.

3. On the other hand, learned APP for the State opposed the application with contention that applicant / appellant has been convicted in a case under the provisions of Prevention of Corruption Act, 1988. Learned Advocate representing applicant could not contact him. He has also not intimated his advocate about his new residential address. He further submits that pursuant to the direction issued by this Court, Police Party was specially deputed to trace the whereabouts of appellant and to execute non-bailable warrant. Applicant was also found absconding from the place of work, when police party went to Gurgaon to execute the warrant. He, therefore, submits that the application be rejected and in case, the application is allowed, same may be

allowed subject to heavy costs, looking to the fact that heavy expenditure was incurred in deputing police party in search of applicant.

4. Having appreciated the submissions advanced and the contention of the learned Counsel for the applicant that applicant has not absconded but, due to seeking job, he went to Delhi, I am of the view that request of applicant to cancel the warrants deserves due consideration. However, looking to the fact that the State Government had incurred expenditure for searching the applicant and sending the police party to Gurgaon, I am of the view that request of the applicant deserves to be granted subject to heavy costs and certain conditions which include, furnishing fresh bail. Hence, the following order:

ORDER

i) The application is allowed in terms of prayer clause (B) subject to following conditions:

(a) Payment of costs of Rs.50,000/- to be deposited in

High Court. On deposit of amount of costs, same shall be credited to State Account;

(b) Applicant to furnish fresh bail in the sum of Rs.50,000/- with one surety in the like amount within two weeks from the date of this order. Bail be furnished in High Court;

(c) Applicant shall furnish his personal details which include residential and business address, phone numbers, mobile numbers of his residential and office address with copies of proof of residential address;

(d) Applicant shall furnish names and addresses of his three close relatives with their phone numbers;

(e) Applicant shall personally attend each and every date of hearing. In the event of change in address, he shall intimate the same to the Superintendent, Anti Corruption Bureau, Latur as

well as this Court.

ii) Authenticated copy of the order be issued to applicant. Parties to act upon authenticated copy of the order.

iii) List the appeal for final hearing on 14th June, 2017.

(V.L. ACHLIYA, J)

kadam/