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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO.1540 OF 2017**

Rajkumar Chainrai Basantani

... Petitioner

vs.

The State of Maharashtra & Anr.

... Respondents

Mr. Manish Bhora i/b. Khan & Associates for the Petitioner.

Mr. V. S. Chate, APP, for the Respondent-State.

Mr. H. s. Venegavkar for CBI.

CORAM : A.K. MENON, J.**DATE : 13th JUNE, 2017****P.C.**

1. By this writ petition, the petitioner seeks cancellation of non-bailable warrant issued by quashing of the order dated 14th March, 2017 and the order dated 29th March, 2017 passed by the Sessions Court rejecting his Revision Application. Before the 3rd Additional Chief Metropolitan Magistrate Court, Mumbai, the petitioner appeared and have been appearing from time to time. By an order dated 18th January, 2017 the Sessions Court stayed the proceedings before the trial Court till the next date. It is common ground that the stay is since continued till date. However, the petitioner did not remain present before the trial Court nor did he filed an application for exemption despite a direction to do so orally. This direction came to be passed on 11th April, 2017.
2. In the circumstances, on 14th March, 2017 the Magistrate issued non-bailable warrant against the petitioner on "Exhibit D". It is stated across the

bar that Exhibit D is to take the matter on board. However, since the petitioner had not sought exemption nor did he filed an application for exemption, the warrant came to be issued. Thereafter on 14th March, 2017 itself an application was made seeking exemption. However, it was allowed subject to costs of Rs.5000/-. The matter is now listed on 30th June, 2017 before the Magistrate's Court and in the facts of case, it will be appropriate in the interest of justice that the petitioner be permitted to apply for exemption and in the meantime the warrant deserves to be cancelled. Although the order impugned is dated 14th March, 2017, it is seen that there are two orders passed on 14th March, 2017 one which pertains to issuance of non-bailable warrant and the second which pertains to the direction to pay costs. The learned counsel for the petitioner states that the petitioner will pay costs within a period of one week from today.

3. In the circumstances, I pass the following order:-

- (i) Subject to payment of costs as aforesaid, the application for exemption will be made on or before the next date. In the meantime, non-bailable warrant issued by order dated 14th March, 2017 is hereby cancelled.
- (ii) Petition is disposed of in the above terms.
- (iii) Parties to act on an authenticated copy of this order.

(A. K. MENON, J.)