

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 1554 OF 2017

Airwave International Pvt. Ltd. Ors

....Petitioners

Vs.

The State of Maharashtra

... Respondent

Mr. Ganesh K. Sovani Advocate for Petitioner

Mr. S. R. Agarkar APP for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATED : 20th APRIL, 2017.

P.C.

Not on board. Upon production, taken on board.

- 1) Heard.
- 2) Rule. Rule made returnable forthwith with the consent of the parties.
- 3) Petitioners herein are accused in Criminal Case No. 498/SS/2017 pending before 50th Additional Metropolitan Magistrate, Vikhroli, Mumbai as they are facing prosecution for offence punishable under section 138 r/w section 141 of Negotiable Instruments Act. It appears that on 06/01/2017,

complainant had filed an application demonstrating therein that summons was served on the address provided by the accused and registered in the ROC and that envelop is returned undelivered with remark “Not Found”. According to the complainant, petitioners are deliberately avoiding service of summons and therefore, they wanted to serve the respondents by substitute service. The learned Magistrate had considered the said application and had issued bailable warrant in the sum of Rs. 5,000/- each.

4) The learned counsel for the petitioners submits that petitioners had no intention of evading service. That they are lodged in Delhi. According to the learned counsel, execution of bailable warrant would expose the petitioners to social obloquy and therefore, petitioners had prayed for cancellation of bailable warrant.

5) Bailable warrants are issued only to ensure the presence of the accused before the Court and therefore, the said bailable warrant cannot be cancelled in a writ petition under Article 227 of the Constitution of India as it is an interlocutory order which does not dwell upon any of the final rights of the

accused persons. Be that as it may, the learned counsel for the petitioners upon instructions submits that petitioners are giving an undertaking that they would remain present before the court on the next scheduled date i.e. on 29/04/2017 and file an application for recalling bailable warrant. The learned Magistrate to decide the application on its own merits, forthwith without calling say of the complainant.

6) Petitioners shall give an undertaking to the Court that they would remain present on every scheduled date or in the alternative they would permit their Advocate to represent them and remain present whenever necessary.

7) Bailable warrant issued vide order dated 06/01/2017 is stayed till 29/04/2017. Upon failure of the petitioners to cause their presence before the Magistrate on 29/04/2017, the learned Magistrate to take appropriate actions.

8) With these directions petition stands disposed of.

- 9) Rule is made absolute in the above terms.
- 10) Parties to act on authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J.)