

Anand

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

WRIT PETITION NO. 624 OF 2018

Mr. Fakira Ramchandra Sable .Petitioner

Vs.

State Bank of Hyderabad & anr. .Respondents

Mr. P. Kasar, Advocate, for the Petitioner

Mr. H. J. Dedhia, APP, for the Respondent No. 2 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 13.02.2018

P.C.

. Heard learned counsel for the parties.

2. By this Petition, the Petitioner has impugned the Order dated 13.04.2017 passed by the learned Additional Sessions Judge, Pune below Exh. 20 in Cri. Appeal No. 231 of 2013, by which the learned Sessions Judge was pleased to reject the Application of the Petitioner seeking cancellation of the NBW issued against him.

3. Learned counsel for the Petitioner submitted that in an Appeal, presence of the accused is not required. He submits that the Petitioner's Advocate was present in Court. He further submitted that the

learned Judge failed to consider the Medical Certificate of the Petitioner that he was suffering from fever and was admitted in Pearl Health Care Clinic & Research Centre. He submits that as far as the observation that the Petitioner is not staying at the earlier place of residence is concerned, the Petitioner will furnish his present and fresh address and also that of the sureties. Statement accepted.

4. Perused the papers. It appears that the Petitioner has filed Cri. Appeal No. 231 of 2013 in the Sessions Court against the Judgment & Order of conviction and sentence dated 01.04.2013 passed by the learned Judicial Magistrate First Class, Pune in C. C. No. 4541 of 2011 under Section 138 of the Negotiable Instruments Act, 1881. The Appeal is pending since 2013.

5. Considering the statement made by the learned counsel for the Petitioner that the Petitioner will furnish his fresh and current address as well as that of the sureties, the Order dated 13.04.2017 passed by the learned Additional Sessions Judge, Pune below Exh. 20 in Cri. Appeal No. 231 of 2013 rejecting the Petitioner's Application for cancellation of the NBW issued against him, is quashed & set aside.

6. The Petitioner to furnish his fresh and current address as well as that of the sureties at the earliest and in any event within two weeks from today to the Court where the Cri. Appeal is pending. Learned counsel for the Petitioner states that the Petitioner's Advocate will not seek any adjournment on the ground that the Petitioner is not present or for want of instructions.

7. The Petition is allowed and is disposed of in the aforesaid terms.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)