

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

CRIMINAL WRIT PETITION NO.1299 OF 2018

Ramen Pramnik

.. Petitioner

Vs.

State of Maharashtra

.. Respondent

.....
Mr.N.S. Mundargi i/b. Mr.Ninand Muzumdar, Advocate for the
Petitioner.

Mr.A.R. Patil, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : JUNE 18, 2018.

P.C. :

The first information report was registered against the petitioner for the offence punishable under Section 406 read with 34 of the IPC. He was arrested on 22nd August, 2010.

2 From the Roznama annexed to the petition, it appears that the charge-sheet was filed against the petitioner on 10th December, 2010, and, apparently Warrant was issued against him. On 15th October, 2011, non bailable warrant was issued and the case was adjourned to 3rd March, 2012. Thereafter, report was awaited. The warrants could not be executed against the

petitioner, and, therefore, it was returned to the trial Court with report that the warrant could not be executed as the applicant was not available and he was residing at the given address on rental basis. In view of the report of the police, the trial Court forfeited cash bail deposit and issued proclamation against the accused by order dated 5th February, 2013.

3 While he was in police custody, the dispute was resolved with complainant and account were settled. The dispute was in relation to commercial transaction. It is stated that according to the terms of settlement arrived between parties, petitioner was under impression that the case has been finally resolved and complainant expressed that they would withdraw the complaint. His advocate from Arambagh gave him impression that all steps regarding settlement of dispute were initiated and case is withdrawn. The petitioner is handling business at Kolkatta. There were medical issues in family. It is submitted that there was no intention to avoid the due process of law.

4 It is submitted by the learned counsel for the petitioner that there was no intention to abscond or avoid the proceedings before the trial Court. It is submitted that the

petitioner was not aware of pendency of proceedings. He is willing to appear before the Court and face the proceedings in accordance with law. It is submitted that the next date before the trial Court is 14th July, 2018, and, the petitioner would appear before the Court on that date. However, in view of the issuance of proclamation, and, forfeiture of bail bond, the petitioner apprehends that he will be taken into custody. It is, therefore, submitted that the petitioner be protected from any such coercive measure by cancelling the Non Bailable Warrant and the proclamation issued against him. The petitioner undertakes to appear before the trial Court on every date of hearing unless exempted by the Court.

5 Learned APP submitted that the petitioner may appear before the Court at the next date of hearing, however, warrant issued against him may not be cancelled, as he was absconding for a period of about eight years. It is submitted that the petitioner ought to have followed the proceedings after grant of bail and it was his duty to attend the proceedings.

6 On perusal of the documents on record, it is apparent that the petitioner was granted bail on 2nd September, 2010 on

certain conditions. Although, the petitioner cannot be excuse for his lapses, since the petitioner would appear before the trial Court on the next date of hearing, there is no point in sending him in custody for not appearing before the Court. It is true that the petitioner could have approached the Court for cancellation of warrant by appearing before Court, however, subsequently, proclamation has been issued against him even cash bail amount furnished by him has been forfeited. Taking in to consideration the aforesaid circumstances, the nature of proceedings, and submissions advanced by the learned counsel for the petitioner, the issuance of Non Bailable Warrant and subsequent proclamation can be set aside by directing the petitioner to appear before the Court on the date of hearing.

7 Hence, the following order:

:: ORDER ::

- (i) Non Bailable Warrant issued by the Court in C.C. No.589/PW/2010 on 10th December, 2010 and the Proclamation issued on 5th February, 2013, is set aside. The petitioner shall appear before the trial Court on 14th July, 2018. He

shall file an undertaking before the trial Court that he will appear on every date of hearing unless exempted by the Court;

- (ii) Petitioner is permitted to furnish P.R. Bond in the sum of Rs.25,000/-, with one or more local surety in the like amount;
- (iii) Writ Petition stands disposed of accordingly.

(PRAKASH D. NAIK, J.)