

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

CRIMINAL APPLICATION NO.503 OF 2018

Bhupendra Purushottam Pandya	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

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Mr.S.V. Marwadi I/b. Ms.Trupti M. Khamkar, Advocate for the Applicant.
Mr.A.R. Patil, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JULY 17, 2018.

P.C. :

The applicant is facing prosecution for an offences punishable under Sections 498-A, 406 and 420 of Indian Penal Code. The prayer made in this application is seeking exemption from appearing before the trial Court. It is contended that the applicant is freelance preacher of Hindu religious scriptures and is required to travel all over India as well as abroad. The trial Court had issued a Non-Bailable Warrant against the applicant. An application was preferred for cancellation of the said warrant. Learned Magistrate by order dated 23rd January, 2018, stayed execution of warrant and directed the applicant to deposit penalty of Rs.30,000/-, with the condition that he shall remain

present before the Court on the next date of hearing. Thereafter, the application came up for hearing before the Court on 20th March, 2018. The applicant remained present before the Court. It was pointed out that the amount of Rs.30,000/-, towards penalty was deposited by the applicant. The trial Court then cancelled the warrant with the specific direction to the accused to attend each date of hearing and co-operate for timely disposal of the case and absence of accused will lead to taking coercive steps against him. In view of the said order, the applicant had approached to this Court to set aside the order directing him to remain present on each and every date of hearing and had prayed for exemption till further orders.

2 Mr.Marwadi, learned counsel appearing for the applicant submitted that the applicant is required to travel all over India and also abroad for delivering lectures on Hindu religious scriptures, being a freelance preacher. It is submitted that the condition not to leave was set aside by the Sessions Court on 7th July, 2016. It is further submitted that the application for discharge preferred by the applicant is pending before the trial Court. It is submitted that the said application is pending since 27th May, 2016. Trial Court had directed prosecution to file say. It is submitted that the applicant is not delaying the

proceedings and his application for discharge has remained pending for long period of time. It is submitted that until the application for discharge is decided by the trial Court the applicant be exempted from appearing before the Court.

3 Learned APP submitted that from the orders passed by the Court which are annexed to the application, it appears that the applicant had not remained present before the Court on several occasion, and, therefore, the Court was required to pass the impugned orders. It is submitted that the proceedings are delayed on account of absence of the applicant. It is submitted that the order passed by the trial Court may not be interfered with.

4 Having gone through the documents, it is apparent that by order passed by the trial Court dated 20th March, 2018, that the applicant is directed to remain present before the trial Court on each and every date of hearing and co-operate with timely disposal of the case. It is required to be noted that the application for discharge, preferred by the applicant is pending since 2016, and, the said application has to be decided. In the circumstances, the applicant can be exempted from appearing

before the trial Court, till the application for discharge is decided by the trial Court. Considering the fact that the application is pending since 2016, it would be appropriate to decide the said application expeditiously.

5 In the circumstances, I pass the following order:

:: ORDER ::

- (i) The impugned order dated 20th March, 2018, passed by the Metropolitan Magistrate 17th Court, Borivali, Mumbai, to the extent of directions to attend each and every date of hearing, is set aside. The applicant is exempted from appearing before the trial Court till the final disposal of the discharge application preferred by the applicant;
- (ii) Trial Court is directed to decide the application for discharge preferred by the applicant within a period of four months from today;

- (iii) In case the application for discharge is rejected, the applicant will be at liberty to prefer fresh application for exemption before trial Court;
- (iv) In case such an application is preferred, same can be heard and decided by the trial Court without being influenced by this order and in accordance with law.
- (v) Criminal Application No.503 of 2018, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)