

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

CRIMINAL WRIT PETITION NO.1928 OF 2018

Jamil Ahmed Mohammed Khalil

.. Petitioner

Vs.

The State of Maharashtra

.. Respondent

.....
Mr.Ashok M. Saraogi, Advocate for the Petitioner.

Mr.A.R. Patil, Addl. PP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : AUGUST 7, 2018.

P.C. :

Petitioner was impleaded as an accused in First Information Report ("FIR", for short) No.229 of 2005, registered with Byculla Police Station for offence punishable under Section 420 of Indian Penal Code ("IPC", for short). On completing investigation, charge-sheet was filed against him. The proceedings are pending in the Court of Metropolitan Magistrates 25th Court, Mazgaon, Mumbai.

2 Apparently, it appears that after charge - sheet was filed and the proceedings were assigned to the trial Court. The petitioner had not appeared before the Court, which resulted in

issuance of Non Bailable Warrant ("NBW", for short) and Proclamation. It is submitted by the learned counsel for the petitioner that the petitioner was represented by his advocate and he was under that belief that the proceedings are pending in the Court and his presence is not required. It is also submitted that the advocate representing the petitioner has subsequently passed away. The petitioner had received intimation dated 31st August, 2017, from the police station about the Proclamation issued against him. In pursuant to that, the petitioner has preferred this petition. Roznama of the trial Court has been annexed to the petition, which indicate that the NBW was issued against him and the Proclamation is pending against him. Learned counsel for the petitioner, on instructions, submits that the petitioner is willing to appear before the trial Court, and, would continue to appear before the Court and would not cause any further delay in the proceedings. It is further submitted that the petitioner would file undertaking before the trial Court that he will attend the proceedings regularly and shall not protract the same. The statement is accepted as an undertaking to this Court.

3 In the circumstances, I pass the following order:

:: ORDER ::

- (i) Criminal Writ Petition No.1928 of 2018, is allowed in terms of prayer Clause (a);
- (ii) The impugned order or Proclamation dated 23rd June, 2016 and 27th September, 2017 and Non Bailable Warrant issued against the petitioner in connection with Case No.1700599/2005 arising out of FIR No.229 of 2005, pending to the file of Metropolitan Magistrate 25th Court, Mazgaon, Mumbai, is quashed and set aside;
- (iii) Petitioner is directed to appear before the trial Court on 13th August, 2018 at 11:00 a.m.;
- (iv) Petitioner shall file an undertaking before the trial Court that he would attend the proceedings regularly and shall not delay the same, in any manner;
- (v) Criminal Writ Petition No.1928 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)