

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

CRIMINAL WRIT PETITION NO.3385 OF 2018

Shailesh Trivedi

.. Petitioner

Vs.

The State of Maharashtra & Anr.

.. Respondents

.....
Mr.Navin D. Shrivastava, 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. :

The petitioner is facing prosecution for an offence punishable under Section 138 of Negotiable Instruments Act, 1881. petitioner is the resident of Ahmadabad, Gujarat. The proceedings were posted before the trial Court for hearing on 17th July, 2018. The Court was vacant. In view of that the Board was discharged and the matter was adjourned. It is submitted by the counsel for the petitioner that the advocate for the complainant moved an application before the incharge Court for issuance of Non Bailable Warrant against the petitioner. After learning about the application being moved at the instance of the complainant, the petitioner's advocate appeared before the

incharge Court and preferred an application for exemption. The said application was rejected by the trial Court and Non Bailable Warrant was issued. Thereafter, the petitioner preferred an application for stay of execution of the warrant on the same date. The said application was rejected on the ground that the petitioner has not furnished bail bonds.

2 It is submitted by the advocate for the petitioner that the petitioner is the resident of Gujarat. The Board was discharged by the regular Court as the Court was vacant. The advocate for the complainant had then moved the papers before the incharge Court and than Non Bailable Warrant was issued. Although an application for exemption was preferred, the trial Court was pleased to issue warrant.

3 Taking into consideration the aforesaid circumstances, it would be appropriate to stay the execution of Non Bailable Warrant issued against the petitioner. The next date before the trial Court is 18th August, 2018. Learned counsel for the petitioner, on instructions, submits that the petitioner would remain present before the trial Court on 18th August, 2018. He would prefer an application for cancellation of warrant.

However, he apprehend that in view of the earlier orders, the petitioner may be taken into custody. Taking into consideration the aforesaid aspect, the Non Bailable Warrant issued against the petitioner is stayed till 24th August, 2018. The petitioner will be at liberty to prefer an application for cancellation of warrant by remaining present before the Court on 18th August, 2018. The petitioner is also at liberty to furnish bail bond before the trial Court. The trial Court shall decide thte application for cancellation of Warrant on 18th august, 2018. In case the petitioner furnishes the bail bond, the trial Court may accept the same.

(PRAKASH D. NAIK, J.)