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

**CRIMINAL APPLICATION NO.406 OF 2017
IN
CRIMINAL WRIT PETITION NO.2945 OF 2015**

Goldie Sud ... Applicant

IN THE MATTER BETWEEN

Goldie Sud ... Petitioner

Versus

The Union of India and Ors. ... Respondents

Mr.P.N.Wagh, for the Applicant.

Mr.Ajit Bhise i/b Mr.H.S.Venegaonkar, for the Respondent Nos.1 and 2.

Mr.Yogesh Dabke, A.P.P for the Respondent No.3-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 16th FEBRUARY, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks cancellation of the NBW issued as against the applicant, vide order dated 25th July, 2017, passed by the learned Additional Chief Metropolitan Magistrate, 19th Court,

Esplanade, Mumbai, in C.C.No.365/CS/2006.

3. Learned Counsel for the applicant has tendered an affidavit-cum-undertaking of the applicant. The same is taken on record and marked 'X' for identification. In the said an affidavit-cum-undertaking, the applicant has undertaken to attend the trial Court as and when called upon and on all dates as may be assigned. He has also tendered an unconditional apology for the inconvenience caused due to his non-appearance in the trial Court.

4. Learned Counsel for the Respondent Nos.1 and 2 vehemently opposed the application. He submitted that no interference is warranted in the impugned order. Learned counsel for the Respondent Nos.1 and 2 has tendered an affidavit-in-reply of the Respondent-Anjan Chanda s/o C.C.Chanda, working as Assistant Director in the Directorate of Enforcement, Ministry of Finance, Government of India. According to learned counsel, the applicant is deliberately remaining absent, on some pretext or the other. He submitted that the applicant has not even engaged an advocate in the trial Court. He submitted that the applicant is abusing the process of law.

5. Perused the papers. It appears that the applicant has not been diligent in attending the trial Court proceeding. However, considering the affidavit-cum-undertaking of the applicant tendered today, wherein he has undertaken to attend the trial Court as and when called upon and on all dates as may be assigned and in view of the unconditional apology tendered by the applicant, for the inconvenience caused due to his non-appearance in the trial Court, the impugned order rejecting the applicant's application for cancellation of NBW, is quashed and set aside.

6. Learned Counsel for the applicant states that the applicant will appear on the next date in the trial Court alongwith his Advocate and on all such dates as may be given by the trial Court, except in case of unforeseen exigency/difficulty.

7. Considering the aforesaid, only by way of indulgence, the impugned order dated 25th July, 2017, passed by the learned Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai, in C.C.No.365/CS/2006, is quashed and set aside.

8. Application is allowed and disposed of in above terms.
9. Writ Petition No.2945 of 2015, to be listed for 'Admission' on 1st March, 2018.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.