

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 3964 OF 2016**

Parveen Aslam Khan

....Petitioner.

Vs.

The State of Maharashtra &amp; Anr.

....Respondents.

Mr. Sandeep K. Kadam I/by Sushant Narkar for the Petitioner.

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

Mr. H.S. Venegaonkar for Respondent No.2.

**CORAM : A. S. GADKARI, J.****DATE : 5<sup>th</sup> OCTOBER, 2018.****P.C.:-**

By the present Petition, the Petitioner has impugned Orders dated 8<sup>th</sup> October, 2016 and 7<sup>th</sup> November 2016 passed by the learned Additional Chief Metropolitan Magistrate, 3<sup>rd</sup> Court, Esplanade, Mumbai, thereby issuing non-bailable warrant and rejecting the Application of the Petitioner for cancellation of the said non-bailable warrant under Section 70(2) of the Code of Criminal Procedure.

2           The record indicates that, as the Petitioner remained absent on various occasions before the Trial Court in the proceedings pending before it, the learned Trial Court was constrained to issue

non-bailable warrant against the Petitioner.

The learned counsel for the Petitioner submitted that, there are family problems which are being faced by the Petitioner and that is the reason, the Petitioner remained absent on certain occasions before the Trial Court. He further, on instructions, submitted that, hereinafter the Petitioner will attend all the dates before the Trial Court and will not seek any adjournment on any count.

3 In view of the statement made by the learned counsel for the Petitioner, the impugned Orders dated 8<sup>th</sup> October, 2016 and 7<sup>th</sup> November, 2016 passed by the Trial Court are hereby quashed and set aside subject to condition that, the Petitioner shall pay a cost of Rs.5,000/- to the High Court Legal Aid Committee within a period of three weeks from today.

4 It is made clear that, the payment of costs within stipulated period shall be condition precedent for setting aside the said impugned Orders.

5 Petition is allowed in the aforesaid terms.

**(A.S. GADKARI, J.)**