

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4656 OF 2017**

Awadh Narayan Pande

...Petitioner

Versus

State of Maharashtra

...Respondent

Mr. Ghanshyam Upadhyay with Mr. Kamlesh Mishra and Mr. Parth Pandey
I/b Law Juris for the Petitioner

Mr. Rajendra J. Rathod, Spl. P.P. with Mr. Vinod Chate, A.P.P for the
Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 18th JANUARY, 2018

P.C. :

1 Heard learned counsel for the parties.

2 By this petition, the petitioner has challenged the order issuing non-bailable warrant dated 25th September, 2017 (reissued on 7th November, 2017) passed by the learned Judicial Magistrate First Class, Dahanu, Palghar, in RCC No. 120/2016 by which learned Magistrate was pleased to issue non-bailable warrant as against the petitioner. Learned Counsel for the petitioner states that he will file an appropriate application

before the trial Court seeking cancellation of his non-bailable warrant, however, the petitioner be protected for a period of two weeks. Learned counsel for the applicant submits that failure to appear before the learned Judge was neither intentional nor deliberate but as the applicant was pursuing a legal remedy.

3 Learned Special PP has no objection.

4 Perused the papers. The learned Magistrate vide order dated 7th November, 2017 was pleased to issue non-bailable warrant as against the applicant, as the applicant had failed to appear before the Court. Admittedly, charge has been framed against the other accused and trial has proceeded. As far as the present petitioner is concerned, it is informed that his revision application is pending in the Sessions Court.

5 Be that as it may, in the facts of the case, the non-bailable warrant issued by the learned Magistrate shall not be given effect to for a period of two weeks to enable the petitioner to appear before the learned Magistrate and file an appropriate application seeking cancellation of the

non-bailable warrant within the said period. If such an application is filed, the learned Judge shall consider the same on its own merits.

6 Application is accordingly disposed of.

7 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.