

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Writ Petition No.368 of 2018
(Giriraj Banbihari Gandhi .vs. The State of Maharashtra through Food & Drug Department Mantralaya, Mumbai and others.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr.Mahesh Kisnani, Advocate for Petitioner.
Mrs. Swati Kolhe, APP for Respondent Nos. 1 to 3.

CORAM : Manish Pitale, J.
DATED : June 28, 2018.

1. Pursuant to the order dated 25.06.2018, the learned counsel for the petitioner has placed on record copy of the bail application marked as Exh.43.

2. By this petition, the petitioner has challenged issuance of non-bailable warrant against him in Criminal Case No. 66 of 2001 by the Court of Chief Judicial Magistrate, Gadchiroli. The said case pending against the petitioner is based on complaint filed by the Food Inspector against the petitioner for contravention of various sections of the Prevention of Food Adulteration Act, 1954. The said non-bailable warrant dated 6.1.2018 was issued against the petitioner because of repeated defaults on his part in attending the proceedings before the said Court. The petitioner filed an application for cancellation of non-bailable warrant, but the said application stood rejected by order dated 1.3.2018 passed by the said Court.

3. On 23.04.2018, while issuing notice on this petition, the petitioner was directed to appear before the Chief Judicial Magistrate, Gadchiroli and submit to its custody and to move an application for grant of bail which was to be decided on the same day. Accordingly, the petitioner moved the said application for grant of bail Exh.43 on 2.5.2018 and the Court below rejected the same on the same day. By way of amendment, the petitioner is seeking to challenge the said order also.

4. Perusal of the record of the present case does show that the petitioner has repeatedly defaulted and he has remained absent before the Court below for a long period of time. Therefore, the Court below had no alternative but to issue non-bailable warrant against him.

5. But, the record shows that on 26.02.2018 the petitioner had filed an undertaking before the Court below stating that he shall personally remain present before the said Court on each and every date when the case is listed. It would be in the interest of justice if the present petitioner is permitted to abide by the said undertaking. Therefore, the present writ petition is disposed of by partly allowing the same.

6. Non-bailable warrant issued on 6.1.2018 against the petitioner shall stand cancelled and the order dated 2.5.2018 rejecting his application is set aside on the following conditions:-

(A) The petitioner shall remain present before the

Court of Chief Judicial Magistrate, Gadchiroli, in Criminal Case No. 66 of 2001 on each and every date of listing of the said case in terms of the undertaking given to the Court on 26.2.2018.

(B) Criminal Case No.66 of 2001 shall be decided expeditiously by the said Court and in any case within a period of three months from today. If the petitioner violates the aforesaid direction of this Court of remaining present in the Court below on each and every date of listing of the case, the present order shall stand recalled and the petitioner shall be taken into custody.

7. The writ petition is disposed of.

JUDGE

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