

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

WRIT PETITION No. 827 OF 2019

Vimal Raj Mathur

...Petitioner

Versus

Securities and Exchange Board of India & Anr.

...Respondents

Mr.Yuvraj P. Narvankar for the Petitioner.

Ms.Anusha Rastogi for Respondent No.1.

Mr.Ajay Patil, APP for Respondent No.2-State.

Mr.Dipak Hingot, SEBI Officer present.

CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 28 FEBRUARY 2019

P.C.:

1. Upon urgent mentioning, taken on production board.
2. In this Petition, the petitioner is challenging the order dated 16.01.2019 passed by the learned SEBI Special Judge, Sessions Court of Greater Mumbai, rejecting the application of cancellation of non-bailable warrant and proclamation issued under section 82 of the Cr.P.C. and also the order dated 21.01.2019 passed by the learned SEBI Special Judge, Sessions Court of Greater Mumbai, directing to issue non-bailable warrant through Commissioner of Police at Mumbai.
3. The learned counsel for the petitioner submits that the petitioner is a Managing Director of the company and he is suffering from various ailments. He

stays at Hyderabad. He further submits that the petitioner was facing prosecution in C.C. No. 145 of 2001 before the Special Court, Hyderabad. The learned Judge of the Special Court, Hyderabad by judgment and order dated 11.09.2006 acquitted the petitioner. However, respondent No.1-SEBI has initiated prosecution under section 24 (2) of the Securities and Exchange Board of India Act, 1992 (for short "SEBI") before the Special Court, Mumbai for non-payment of penalty. The said case is tried before the learned Special Judge, Mumbai and now the matter is fixed for pronouncement of the judgment. The petitioner has filed an application for compounding the offence to SEBI. He prays that the petitioner be allowed to move the same application before the learned Judge of the Special Court, Mumbai. He further submits that out of Rs. 13 lacs, the petitioner has already paid Rs.2 lacs towards penalty and is ready to pay the remaining amount of penalty i.e., Rs. 11 lacs.

4. The learned counsel for respondent No.1-SEBI submits that the application for compounding the offence was made and it was accepted by SEBI, however, the petitioner did not pay any amount. She further submits that Rs. 2 lacs were recovered by SEBI. Till today, the petitioner did not take any steps to compound the offence and satisfy the claim under section 24 (2) of the SEBI Act.

5. The learned Special Judge has heard the matter. It is informed that now the matter is fixed for pronouncement of the judgment on 01.04.2019, as the petitioner/accused did not appear before the learned Special Judge. The learned Special Judge is fully justified in issuing a non-bailable warrant to seek presence of the petitioner/accused at the time of pronouncement of the judgment.

6. Hence, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)