

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

WRIT PETITION No. 1571 OF 2019

Shri Baliram Ramchandra Atkale

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

Mr.Satyajeet A.Rajeshirke I/b.Mr.Dnyaneshwar W.Bhosale for the
Petitioner.

Mr.A.R.Patil, APP for Respondent No.1-State.

**CORAM : MRS. MRIDULA BHATKAR, J.
DATE : 01 APRIL 2019**

P.C.:

1. Upon urgent mentioning, taken on production board.
2. This petition is directed against the order dated 07.03.2019 passed by the learned Additional Sessions Judge, Pandharpur thereby rejecting the application for cancellation of the non-bailable warrant so also the order dated 22.02.2019 passed by the learned Additional Sessions Judge, Pandharpur.
3. Learned Counsel for the petitioner has submitted that the foot of the petitioner was fractured in the month of February, 2019 and,

therefore, he could not remain present at the relevant time. He has further submitted that the petitioner/accused shall remain present on 04.04.2019 without any excuse and shall produce the medical certificate of the Doctor before the learned Additional Sessions Judge. He has prayed that the order of issuance of the non-bailable warrant and forfeiture of Rs. 30,000/- is to be set aside.

4. I have perused the orders dated 22.02.2019 and 07.03.2019 passed by the learned Additional Sessions Judge, Pandharpur. Both the orders are well reasoned. The petitioner/accused is facing prosecution under section 302 of the Indian Penal Code. Record shows that one foot of the petitioner was fractured. In view of the submissions made by the learned Counsel and as one foot of the petitioner was fractured at the relevant time, the petition is allowed with following order :

ORDER

(i) The orders dated 22.02.2019 and 07.03.2019 passed by the learned Additional Sessions Judge, Pandharpur are hereby quashed and set aside;

(ii) The petitioner/accused is directed to remain present on 04.04.2019 at 11.00 a.m. before the Court of the learned

Additional Sessions Judge, Pandharpur and shall remain present hereafter on all the Court dates unless an exemption is granted by the learned Sessions Judge;

(iii) The petitioner/accused is directed to deposit Rs.10,000/- towards costs with the Legal Aid Services, Mumbai within a period of one week from today.

(MRIDULA BHATKAR, J.)