

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

CRIMINAL WRIT PETITION NO.1754 OF 2019

Shri Kawaljit Iqbal Bullar

... Petitioner

Vs

The State of Maharashtra

... Respondent

Mr.Shreeram Shirsat with Nikhil Biyani and Amandeep Singh i/b
D.N. Wadkar for the Petitioner

Mr.N.B. Patil, APP, for the Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: APRIL 2, 2019

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. The trial Court has issued non-bailable warrant against the petitioner/accused as he was not present. The learned Counsel for the petitioner/accused submits that immediately on the same day, i.e., on 20.12.2018, the application was made for cancellation on warrant. However, it was rejected. Then, he preferred revision application No.2 of 2019. However, the revision was dismissed by order dated 25.1.2019 by the learned Sessions Judge, Palghar.

3. The learned Counsel for the petitioner submits that the case is pending since 2005. The petitioner is appearing and has taken bail. Accused No.1 is absconding and therefore, the matter was sent to dormant file in 2012. Thereafter, suddenly, the matter appeared on Board and therefore, he could not remain present. The learned Counsel submits that hereafter the petitioner will remain present on all the dates unless the permission is sought for exemption.

4. Learned Prosecutor is present and submits to the orders of the Court.

5. Considered submissions of the learned Counsel. The non-bailable warrant issued against the petitioner is hereby cancelled. Also, the order of issuance of warrant by the Judicial Magistrate First Class and the order of confirmation of the same by the learned Additional Sessions Judge, Palghar are hereby set aside and the petitioner is directed to remain present on all the Court dates, without fail, unless an order of exemption is secured.

6. The trial Court is directed to avail all the necessary steps to procure the presence of accused No.1 as the trial is pending since

2005. If all the provisions under sections 82 and 83 of the Code of Criminal Procedure are exhausted for procuring the presence of the accused, then, the learned Judge may take further steps to separate the trial of accused No.1 and proceed against the available accused and decide the matter accordingly.

7. Writ Petition is disposed of accordingly.

8. All concerned to act on an authenticated copy of this order.

(MRIDULA BHATKAR, J.)