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

CRIMINAL APPLICATION NO.1341 OF 2019

Mittal Madiyar w/o Harish Madiyar	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Sahil Mahajan i/b Ms. Sonal Koli, for the Applicant.

Ms. P.P.Shinde, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 28th NOVEMBER, 2019

P.C. :

1. Heard learned Counsel for the parties.

2. By this application, the applicant has impugned the order dated 14th August, 2019, by which the learned Judicial Magistrate First Class, Vashi at CBD, Belapur, was pleased to reject the application of the applicant seeking cancellation of the Non-bailable warrant issued by the said Court.

3. Learned Counsel for the applicant states that the applicant is not trying to delay the matter. He submits that the applicant could not appear

before the trial Court for genuine reasons i.e. health reasons and as such the learned Magistrate ought to have cancelled the NBW issued by the trial Court on 25th July, 2019. Learned Counsel for the applicant has tendered an affidavit-cum-undertaking of the applicant, who is present in Court. The same is taken on record. In the said affidavit-cum-undertaking the applicant has undertaken to remain present before the learned Magistrate on 4th December, 2019 for framing charge. The applicant has also undertaken to appear before the learned Magistrate on all the dates except in exceptional circumstances disabling her from appearing, before the trial Court.

4. Perused the papers. The applicant is facing trial in connection with C.R. No.67 of 2016, registered with the APMC Police Station, Vashi, for the alleged offences punishable under Sections 406, 420, 468 r/w 34 of the Indian Penal Code. The said case is numbered as R.C.C. No.984 of 2016 and is pending on the file of the learned Magistrate, Vashi at CBD, Belapur. It appears from the impugned order dated 14th August, 2019, that inspite of cancelling the warrant of the applicant on 27th February, 2019, the applicant never appeared before the trial Court, pursuant to which, an NBW was issued. Today, the applicant has tendered an affidavit-cum-undertaking, wherein she has undertaken to remain present before the learned Magistrate

on 4th December, 2019 for framing charge and even thereafter on all the dates except in exceptional circumstances disabling her from appearing.

5. Considering the aforesaid and in particular the affidavit-cum-undertaking tendered by the applicant today, the application is allowed and the impugned order dated 14th August, 2019, passed by the learned Judicial Magistrate First Class, Vashi at CBD, Belapur, is quashed and set aside. In the facts and circumstances, it would also be appropriate to quash and set aside the NBW issued as against the applicant on 25th July, 2019.

6. The Application is allowed and disposed of in above terms.

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

REVATI MOHITE DERE, J.