

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO.1 OF 2020
AND
CHAMBER SUMMONS NO. 599 OF 2009
IN
EXECUTION APPLICATION NO.353 OF 2008**

Himesh Harish Dave	..Applicant
In the matter of	
Kotak Mahindra Bank Ltd.	..Decree Holder/org.Claimant
Vs.	
Himesh H. Dave & Ors.	..Respondents/Judgment Debtors
And	
Ripul Dilip Shah & Ors.	Applicants

Mr.Omar Shaikh i/b. Ms.Usha Tripathi for Applicant in IA No.1/20.
Mr.Chandrakant Chavan for Applicant in CHS No.599/09.
Ms.Juhi Bhogle i/b. Mr.M.B. Kale for Applicant in EXA.

CORAM : G.S. KULKARNI, J.

DATE : 3rd MARCH 2020

P.C.:

Heard learned Counsel for the applicant.

2. As the applicant-Himesh Dave was avoiding service, this Court by an order dated 6 January 2020 had issued a bailable warrant in the sum of Rs.50,000/- against the applicant. The applicant now intends to appear in the present proceedings and hence by this application, the applicant has prayed that the warrant as issued be recalled on his assurance that he shall now appear in the present proceedings.

3. I have read averments as made in the application. The applicant states that he has every intention to obey the orders of this

Court and has full intention to appear before this Court as stated by him in paragraph 6 of the application.

4. Having considered the averments and the undertaking as made in paragraph 9, in my opinion, it is in the interest of justice that the application is allowed, however considering the successive orders passed by this Court, it cannot be unconditional. The bailable warrant shall stand quashed and set aside on the applicant submitting an undertaking to this Court on oath that henceforth he shall always without any default remain present in the proceedings. Such undertaking be made as an undertaking to the Court and in case of any default and/or breach in compliance of the undertaking, the consequence as permissible under law shall instantly be liable against the applicant. Also as the applicant through their Counsel was required to repeatedly approach this Court and ultimately resulting this Court in passing the order dated 6 January 2020, it would be appropriate that the applicant shall pay costs of Rs.10,000/- to the petitioner-Kotak Mahindra Bank Ltd. The amount shall be paid within one week from today and payment of such costs shall be condition precedent.

5. Stand over to 9 March 2020 to enable the parties to have settlement discussion. It is clarified that in the event a reasonable proposal acceptable to the applicant is not received, the Court shall proceed to hear the parties and pass appropriate orders. Respondent Mr.Himesh Dave shall remain present on the adjourned date of hearing as undertaken by him.

[G.S. KULKARNI, J.]