

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1207 OF 2021

RAJENDRA GANGADHAR THOMBRE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Petitioners : Mr. Arun S. Shejwal
APP for Respondent - State : Mr. R. B. Bagul
...

CORAM : N. R. BORKAR, J.

DATE : 27-10-2021

PER COURT :-

By this Writ Petition exception is taken to the order dated 28-09-2021 passed by Additional Sessions Judge, Aurangabad in Sessions Case No. 70 of 2010.

2. The petitioners are the original accused in aforesaid sessions case and they are facing trial for the offences punishable under Sections 395, 353, 332, 186, 506 of the Indian Penal Code. The petitioners were absent on 28-09-2021 and thus trial court was constrained to issue non-bailable warrant against them. On the very same day, the application was moved for cancellation of non-bailable warrant on the ground that the petitioners are resident of village Phulambri, District Aurangabad and reason for their non-appearance is heavy rain fall (Gulab cyclone). The learned trial court rejected the said application by the order impugned.

3. I have heard learned counsel for the petitioners and learned APP for the respondent-State. The learned counsel for the petitioners submits that petitioners are regularly attending the dates before the trial court. It is submitted that on 28-09-2021 they could not appear due to heavy rain fall. On the other hand, learned APP submits that matter was for cross-examination of witness and thus the trial court was justified in issuing non-bailable warrant and not cancelling it.

4. It does not appear from the order dated 28-09-2021 that the petitioners were absent on earlier dates also. Specific reason was mentioned in application which was moved for cancellation of warrant. However, by mechanical order the said application is rejected.

5. Considering the aforesaid facts and circumstances, the order of issuance of non-bailable warrant against the petitioners and the order rejecting the application for cancellation of said warrant are set-aside.

6. In case surety is forfeited, the petitioners shall furnish fresh PR bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand Only) each with one surety in the like amount.

7. The writ petition is disposed of above terms.

(N. R. BORKAR)
JUDGE