

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

CRIMINAL WRIT PETITION NO.2393 OF 2021

Nithalkumar @ Sujit Jagat Pasi	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Mr. Aniket Vagal for the Petitioner

Mr. A. R. Patil, A.P.P for the Respondent–State

PSI Mr. S. S. Tondwalkar from D. M. Nagar Police Station is present

CORAM : REVATI MOHITE DERE, J.
(THROUGH VIDEO-CONFERENCING)
TUESDAY, 6th JULY 2021

P.C. :

1 At the outset, learned counsel for the petitioner seeks leave to amend. Leave granted. Amendment be carried out during the course of the day.

2 Heard learned counsel for the parties.

3 By this petition, the petitioner has impugned the orders dated 10th February 2021 as well as 25th March 2021, by which, the learned

Sessions Judge issued non-bailable warrants as against the petitioner for failure to remain present in Court.

4 Learned counsel for the petitioner submits that the petitioner was appearing before the trial Court regularly prior to the pandemic. He submits that the petitioner is from Uttar Pradesh and having regard to the lock-down and restrictions on travelling, he was unable to attend the hearing of Sessions Case No. 383/2007 on 10th February 2021 and on 25th March 2021, pursuant to which, the trial Court issued non-bailable warrants as against the petitioner. He submits that on the said date i.e. on 10th February 2021, the petitioner's advocate on record was held up in another Court and hence, was unable to file an exemption application before the trial Court and by the time, the advocate reached the Court, the trial Court had issued the non-bailable warrant as against the petitioner. He further submits that the petitioner has never disputed his identity and has already given consent to conduct the trial, even in his absence. He submits that previously two witnesses were examined and that the petitioner had not disputed his identity and that most of the witnesses in the present case who are to be examined are police witnesses.

5 Learned counsel for the petitioner, on the instructions of the

petitioner, undertakes to remain present before the trial Court on 26th August 2021 and even thereafter on the dates given by the trial Court. He submits that the petitioner will file an appropriate application in the trial Court on 26th August 2021 for seeking cancellation of his non-bailable warrants issued by the trial Court on 10th February 2021 and 25th March 2021. Learned counsel prays that the non-bailable warrants be stayed till 27th August 2021, to enable the petitioner to file an appropriate application before the trial Court.

6 Having regard to what is stated aforesaid, it would be appropriate for the petitioner to file an appropriate application in the trial Court seeking cancellation of the non-bailable warrants issued against the petitioner by the trial Court on 10th February 2021 and 25th March 2021.

7 In view of the statement made by the petitioner through his counsel that the petitioner will remain present before the trial Court on 26th March 2021 and file an appropriate application seeking cancellation of the non-bailable warrants, the orders dated 10th February 2021 and 25th March 2021 issuing non-bailable warrants as against the petitioner are stayed till 27th August 2021 to enable the petitioner to file an appropriate application before the trial Court. If an application is filed, the learned Judge to

consider the same on its own merits, uninfluenced by the protection granted by this Court.

8 Writ Petition is accordingly disposed of in the above terms.

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

REVATI MOHITE DERE, J.