

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APL) NO. 933 OF 2021**

Ms. Manjula S. Singh

.....Applicant

V/s.

State of Maharashtra & anr.

(MIDC Police Station, Mumbai)

.....Respondents

Mr. Abhishek Singh, *Advocate for the applicant.*Smt. S.V. Sonawane, *APP for State.**Coram : Sandeep K. Shinde, J.**Wednesday, 24th November, 2021.***P.C. :**

1. Applicant is accused in C.C. No.265/SW/2013 pending on the file of the Additional Chief Metropolitan Magistrate, 22nd Court at Andheri, Mumbai. On 31st August, 2021 complainant moved an application to issue non-baibale warrant against the accused, since she was not present in the proceedings. The learned Magistrate issued non-bailable warrant against her. Applicant moved an application on 13th October, 2021 seeking cancellation of non-bailable warrant. Learned Magistrate declined to cancel the warrant and passed the following order :

“The Accused is in habit of cancelling warrant, citing one reasons or the other. If she is going out of station each time, her lawyer could give and exemption appln, which she is not doing. Matter is obl hence appln not justified, it is rejected.”

2. This order is assailed in this application filed under Section 482 of the Criminal Procedure Code. Learned Counsel for the applicant has pointed out, that the observations made in the impugned order are incorrect and contrary to the roznama, which she has placed on record. It appears therefrom, that once in April 2017, applicant sought exemption from personal appearance, but was rejected. However, the roznama produced on record, shows that, she was present in the Court with her advocate almost on every dates. Additionally, the applicant is 69 year old person and on the given date could not remain present due to untimely death of her mother and brother. In view of these facts, the impugned order is quashed and set aside.

3. The applicant shall remain present on the next date of the hearing before the learned Magistrate. The application is allowed and disposed off in the aforesaid terms.

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(Sandeep K. Shinde, J.)