

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1465 OF 2021

Ramesh Jagannath Ghatge

..PETITIONER

VERSUS

Hukumchand Uttamchand Pande

..RESPONDENT

....

Mr. A.S. Shejwal, Advocate for petitioner

Mr. A.H. Kasliwal (Jain), Advocate for respondent

....

CORAM : R.G. AVACHAT, J.

DATED : 14th MARCH, 2022

PER COURT :

1. Heard. The challenge herein is to an order dated 16th September, 2021 passed in Summary Criminal Case No. 908 of 2017.

2. It is the case instituted otherwise than on police report for the offence punishable under Section 138 of the Negotiable Instruments Act. On the given date i.e. on 16th September, 2021 the petitioner (accused) had moved an application seeking time on the ground that his son was to undergo operation on that day. The Court concerned rejected the application observing that the ground stated in the application was not justifiable. The application was not accompanied by a medical certificate.

3. The Trial Court might have been justified in passing the impugned order. The fact is however, that the petitioner is facing a prosecution for the offence under Section 138 of the Negotiable Instruments Act. If the impugned order is allowed to stand, the evidence of the complainant would remain unchallenged. With a view to give the petitioner an opportunity of hearing, the petition is allowed in terms of prayer clause (B), subject to cost of Rs.2,000/-, to be paid before the trial Court.

4. It is informed that next date before the trial Court is 17th March, 2022. Learned counsel for the petitioner however seeks some indulgence.

5. In view of the same, the trial Court shall accommodate the accused on 17th March, 2022 and may fix the matter on 04th April, 2022 for cross-examination of the complainant. Learned counsel for the petitioner undertakes that the cross-examination of the complainant would be completed on that day. It is hoped that the petitioner would keep his word and cross-examine the complainant on 04th April, 2022.

(R.G. AVACHAT, J.)

SSD