

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

**CRIMINAL APPLICATION NO. 69 OF 2019
IN
WRIT PETITION NO. 4752 OF 2018**

Fahad Nisar Ahmed Shaikh and Ors.

...Applicants/Petitioners

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Abdulkarim N. Pathan - Advocate for the Applicants

Mr. J. P. Yagnik - APP for the Respondents No. 1

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 14th MARCH, 2022

P. C. :-

1. By way of present application, the Applicants praying liberty for restoration of the Petition No. 4752 of 2018.

2. Our attention was invited to Order of this Court dated 07/01/2019 whereby the Petition was dismissed for want of prosecution.

3. The learned counsel invited our attention to the grounds raised in the application, more particularly paragraph no. 3, wherein it is stated that the counsel was required to leave Mumbai, so as to visit his ailing mother who is at native place. The counsel submits due to such urgency, the counsel neither could attend the matter on a scheduled date nor could

make necessary arrangement for mentioning the matter before this Court and his absence before this Court was purely for bonafide reasons and due to unforeseen difficulties.

4. The learned counsel further submitted that during the pendency of the Petition, the parties have arrived at an amicable settlement of the dispute and they may approached this Court by filing necessary terms of agreement seeking the quashment by Consent.

5. The counsel for the Applicants/Petitioners further submitted that to show his bonafide he is ready to abide the conditions imposed by this Court for restoration of petition. Considering the grounds raised in the application, we are of the opinion that the absence of the counsel on scheduled date was for bonafide reasons. As such application is allowed in terms of prayer clause “a” and Petition No. 4752 of 2018 is restored to its file subject to condition that the Petitioner should deposit Rs. 5000/- in the account of High Court Bar Library and submit the receipt thereof in the office within two weeks.

6. Accordingly, Criminal Application No. 69 of 2019 is disposed of.

7. Post the Writ Petition No. 4752 of 2018 for further consideration on **28/03/2022.**

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)