

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

CRIMINAL APPLICATION NO.186 OF 2022

Pradip Rajnikant Shah and Anr. ...Applicants
Versus
M/s. P. P. Gogad and Anr. ...Respondents

Mr. Jugal J. Kanani, for the Applicants.

Mr. A. R. Patil, A.P.P for the Respondent No.2– State.

CORAM : REVATI MOHITE DERE, J.

DATE : 25th FEBRUARY 2022

P.C. :

1. Heard learned counsel for the applicants.
2. By this application, the applicants have impugned the order dated 16th February 2022, passed by the learned Additional Chief Judicial Magistrate, Nashik, in S.C.C. No. 10392 of 2021, by which the learned Judge was pleased to issued Non-Bailable Warrant ('NBW'), as against the applicants.
3. Learned Counsel for the applicants submits that the advocate had filed an application under Section 317 of Code of Criminal Procedure

seeking exemption of the applicants/accused from personal appearance, for a day. He further submits that in para 2 of the said application, it was specifically stated that the advocate for the accused has been duly authorized and instructed by the accused, to proceed with the trial of the above case and that the accused do not dispute their identity. The said application has been filed by the advocate.

4. On being asked, the learned counsel for the applicants does not dispute the fact that the accused have not filed any affidavit on record before the trial Court stating the same. He states that an appropriate affidavit will be filed before the trial Court. Learned Counsel for the applicants states that the applicants will file an appropriate application before the trial Court before 15th March 2022 seeking cancellation of the NBW issued by the trial Court. He submits that to enable the applicants to file an appropriate application, the NBW issued by the trial Court be stayed till 16th March 2022.

5. Without going into the merits of the case, only to enable the applicants to file an appropriate application seeking cancellation of the

NBW before the trial Court, the impugned order dated 16th February 2022, is stayed till 16th March 2022.

6. It is made clear, that this Court has not gone into the merits of the case and as such all contentions of all parties are kept open.

7. If an application seeking cancellation of the NBW is filed by the applicants, the learned Judge to consider the same on its own merits, uninfluenced by the protection granted by this Court.

8. The Application is accordingly disposed of.

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

REVATI MOHITE DERE, J.