

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.908 OF 2022
IN
CRIMINAL APPEAL NO.1508 OF 2019

Prem Vadhamal Ubarani

Applicant

versus

The State of Maharashtra

Respondent

Mr.Rameshwar Gite with Mr.Ashwin Pimpale, Rohit Gorade,
Advocate for applicant.

Mr.S.V.Gavand and Mr.PH.Gaikwad Patil, APP for State.

Mr.Tushar Sonawane, Advocate for respondent in IA.

CORAM : PRAKASH D. NAIK, J.

DATE : 16th March 2022

PC :

1. This is an application for cancellation of warrant issued by Trial Court. The appeal preferred by original complainant was admitted by this Court by order dated 7th November 2019. The applicant (original respondent no.2) was represented by advocate. Action under Section 390 of Cr.PC was directed to be initiated against respondent no.2 and it was further directed that he may be admitted on bail on same terms and conditions on which he was ordered to be released by Court below.

2. The applicant (original respondent no.2) contends that non-bailable warrant issued against applicant by Trial Court may be cancelled.

3. Learned APP submitted that there is lapse on the part of present applicant since he has not complied the order dated 7th

November 2019. Although the order was to the knowledge of applicant, bail bond in accordance with the said order was not executed by the applicant. The application is preferred after a period of more than two years for cancellation of non-bailable warrant. Learned APP tenders report regarding warrant of arrest issued u/s.390 of Cr.P.C. It is submitted that instead of moving the application before this Court, the applicant was expected to move such application before Trial Court and execute bail bond in accordance with order dated 7th November 2019. He further submitted that such application may not be entertained by this Court.

4. Apparently the order dated 7th November 2019 is not complied. The applicant (original respondent no.2) was aware that this Court had initiated action u/s.390 of Cr.P.C and he was directed to be released on bail on same terms and conditions on which he was ordered to be released by Court below.

5. Learned advocate for applicant, however, urged that order dated 7th November 2019 was not communicated to applicant by the advocate representing him. Submission is devoid of merits. The applicant was certainly aware of the fact that appeal has been preferred by original complainant before this Court and appointed concerned advocate to represent him. At this stage applicant cannot contend that there was communication gap with advocate.

6. Be that as it may, since the order dated 7th November 2019 has not been complied, it appears that warrant of arrest has been issued. The applicant is permitted to appear before the Trial Court and

execute bail bond in accordance with order dated 7th November 2019. In the event applicant appears before the Trial Court, the applicant may be released on bail in accordance with clause-(6) of the order dated 7th November 2019. Interim Application is disposed of.

(PRAKASH D. NAIK, J.)

MST