

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.1081 OF 2022

Amit Surolia and Another

...Petitioners

vs.

The State of Maharashtra

...Respondent

VISHAL
SUBHASH
PAREKAR

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VISHAL
SUBHASH
PAREKAR
Date: 2022.04.22
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Mr. Chaitanya Pendse a/w. Mr. Nishigandh Patil i/b. Mr. Prashant Jadhav, for the Petitioners.

Mr. S.R. Agarkar, APP for the Respondent-State.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 21, 2022

P.C.:

1. Heard the learned counsel for the petitioners.

2. The Petitioners have invoked the writ jurisdiction as the learned Magistrate has ordered issue of non bailable warrant against the petitioners in case No. 793/PW/2018 wherein the petitioners are arraigned for the offence punishable under section 420 read with 34 of Indian Penal Code, 1860.

3. It seems that the petitioners have preferred an application for discharge (Exhibit 4) from the said prosecution. On 28th March, 2022 when the matter was listed, the petitioners/accused Nos. 1 and 2 were not present. An application for exemption was preferred. The same was rejected. Thereafter an application for

adjournment came to be filed on behalf of the petitioners. Noting that in view of the order passed below applications (Exhibit 13 and 14) dated 28th March, 2022 the application for adjournment became infructuous, the matter came to be posted on 24th April, 2022 for argument on discharge application (Exhibit 4).

4. The learned counsel for the petitioners has invited the attention of the Court to a copy of Roznama (page 62) generated from the website of the Court wherein the fact that the Court ordered issue of non bailable warrant against the petitioners /accused Nos. 1 and 2 is not reflected. Whereas in the order sheet of 28th March, 2022 it is recorded that the non bailable warrant be issued against accused Nos. 1 and 2. This seems to be the only change in the order sheet and the copy extracted by the petitioners. It would be unwarranted to delve into the correctness of the entries in the Roznama.

5. The learned counsel for the petitioners submitted that the petitioner No. 2 Pramod Surolia is suffering from cancer and is not in a position to appear before the Court. However, the petitioner No. 1 Amit Surolia will appear before the learned Magistrate on 25th April, 2022 and file application for recalling the order of issue of

non bailable warrant.

6. In the circumstances of the case, it would be suffice to stay the execution of non bailable warrant till 29th April, 2022.

7. The petitioner No.1 shall appear before the learned Magistrate on 25th April, 2022.

8. The petitioners are at liberty to file an application for recalling the warrant.

9. The learned Magistrate may consider the prayer for recalling of the non bailable warrant having due regard to the facts to be pleaded by the petitioners.

10. Petition stands disposed.

(N. J. JAMADAR, J.)