

presently pending before the learned Metropolitan Magistrate, 5th Court, Dadar, Mumbai. It appears that on 24th November, 2021 when the applicant's case came up before the learned Magistrate, the applicant was absent and hence, the learned Magistrate was pleased to issue NBW as against the applicant. The cash surety deposited by the applicant/accused vide receipt No. 0230767 dated 20th January, 2020 was credited to the State and his bail bond was forfeited.

4. Learned Counsel for the applicant submits that the applicant was not given any opportunity of being heard before his bail was cancelled. He submitted that neither any opportunity was given by the learned Judge to file an appropriate application seeking cancellation of the NBW.

5. According to the learned Counsel for the applicant, a perusal of the roznama shows that on the last 10 dates, before the trial Court, the applicant had attended the proceedings through his Advocate and that only on 24th November, 2021, he had failed to appear as he was physically unfit and not in a position to instruct his Advocate. Learned Advocate relied on the copy of the roznama. Learned Counsel for the applicant also relied on the medical case papers of the applicant to show that the applicant was suffering from an Urinary Track Infection and was advised bed rest from

23rd November, 2021 to 25th November, 2021. The said medical case papers are annexed to Exhibit-C of the application.

6. Today, learned Counsel for the applicant has tendered an undertaking of the applicant wherein, the applicant has undertaken to remain present before the trial Court on every date either in person or through his Advocate. He has also stated that he will not seek any adjournment, nor delay the progress of the trial, unless in extreme situations. The said undertaking is taken on record and marked as **X-for identification**. In the facts, the learned Judge, ought not have cancelled the bail and forfeited the bail bond of the applicant, on the very day, when NBW was issued.

7. Considering the aforesaid and having regard to the undertaking tendered by the applicant, the impugned order dated 24th November, 2021 passed below Exhibit-1 in C.C.No.132/PW/2015, pending before the learned Metropolitan Magistrate, 5th Court, Dadar, Mumbai, is quashed and set aside.

8. The application is allowed and disposed of on the aforesaid terms.

9. A copy of an undertaking tendered by the applicant to be placed on the record of the learned Judge seized of the Criminal Case bearing No. 132/PW/2015.

10. All parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.