

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.599 OF 2022

Rakesh Mishra **Versus** State of Maha. thr. PSO PS Butibori, Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N.R.Tekade, Advocate for the applicant.
Mrs S.Z. Haider, APP for the State.

CORAM : ANIL S. KILOR, J.
DATED : 22/06/2022

1. In this case, the applicant was granted pre-arrest bail by the trial Court. However, after commencement of the trial, on finding that the applicant is not attending the Court, non-bailable warrant was issued. Thereupon, the applicant filed an application for grant of bail under Section 439 of the Code of Criminal Procedure which came to be rejected and accordingly, the applicant moved the present application.

2. Shri N.R. Tekade, learned counsel for the applicant submits that though the Court has allowed the applications moved by the applicant time to time for grant of exemption, it is wrongly observed that the applicant was continuously absent. He therefore, prays that this Court may grant bail by recording the undertaking of the applicant that he will regularly attend the trial on each date, without fail.

3. Learned APP points out that earlierailable warrant was issued which was cancelled on the request of the applicant. It is pointed out that thereafter the applicant did not appear before the learned Trial Court, on rejection of his application for grant of exemption, and therefore, the learned trial Court has rightly issued the non-ailable warrant against the applicant. It is submitted that the applicant is prolonging the trial. Accordingly, she prays for rejection of the present application.

4. I have perused the application and the documents filed along with the present application.

5. The applications filed on record at Page Nos. 22 and 23, dated 15/01/2022 and 18/02/2022 respectively show that the exemption was granted to the applicant from appearance. Thereafter, similar application was moved which was rejected andailable warrant was issued. Thereafter, on next date on 09/03/2022, the applicant appeared and thereonailable warrant was cancelled.

6. On 29/04/2022, the learned Trial Court while granting exemption had observed that on next date the applicant shall attend the Court without fail. In spite of such specific order, the applicant moved an application for exemption on 31/05/2022, which was reject and non-ailable warrant was issued against the applicant. Thereafter, the application for recall

of order of non-bailable warrant, filed on 03/06/2022, was rejected by the learned Trial Court.

7. Considering the above backdrop, I am of the opinion that one opportunity shall be given to the applicant, in view of the fact that the applicant has undertaken to attend the Court on every date without fail. Accordingly, I pass the following order

- i) The application is **allowed**.
- ii) It is directed that the applicant shall be released on bail in connection with Crime No. 28 of 2021, registered with Police Station, Butibori, District Nagpur for the offences punishable under Sections 328, 272, 273, 188 of the Indian Penal Code and Sections 26(2)(i), 26(2) (iv), 27(2)(e), 30 (2)(a) of the Food Safety and Standards Act, on furnishing P.R. Bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.
- iii) The State is granted to liberty to move an application for cancellation of bail, in case of breach of undertaking given before this Court.

The Criminal Application is **disposed of** accordingly

JUDGE