

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 442 OF 2022.

Sanjay Dattatray Kakade.

. -**VERSUS**-

Archana Naresh Bhutada.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri K.H. Anandani, Advocate for the Petitioner.

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CORAM : VINAY JOSHI, J.

DATE : JULY 07, 2022.

Considering the limited issue, I do not find any propriety in issuing notice to the other side. By consent of the learned Counsel for the petitioner the matter is heard finally.

2. The petitioner is an accused in Summary Criminal Case No.1193/2019 filed under Section 138 of the Negotiable Instruments Act. He has impugned herein common order of the Judicial Magistrate dated 05.04.2022 passed on Exh. 25 and 28 (wrongly mentioned as Exh.23 and 26). By said order, the learned Magistrate has

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rejected to grant personal exemption as well as to release the petitioner on personal bond, and issued non bailable warrant against him.

3. It is informed that there are total 4 similar cases against the petitioner for the offence punishable under Section 138 of the N.I. Act. Today itself in three cases, the petitioner has come before this Court by filing three Writ Petitions challenging the order of similar nature. It reveals that on the first date after service of summons instead of appearing before the Magistrate, the petitioner has moved an application for personal exemption and release on P.R. Bond. In view of that, the learned Magistrate has declined to accede to the prayer and has issued non-bailable warrant.

4. Any how personal appearance of the petitioner has to be secured at least on first date before the Magistrate and thereafter, it is in the discretion of the Magistrate to grant exemption or otherwise. Upon instructions, the learned Counsel would submit that the petitioner would personally

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appear before the trial Court on the next scheduled date i.e. 14.07.2022. In view of this, the petition can be disposed of on certain terms.

5. In view of above, the impugned order of issuance of non-bailable warrant against the petitioner is quashed and set aside. The petitioner shall personally appear before the learned Magistrate on 14.07.2022, as undertaken before this Court. The learned Magistrate is at liberty to decide the nature of security for attendance in his sole discretion. In case the petitioner fails to appear, as undertaken, the Magistrate shall issue fresh non-bailable warrant for securing his presence.

6. Criminal Writ Petition is accordingly disposed of.

JUDGE