

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

CRIMINAL APPLICATION (APL) NO. 796 OF 2022

1. Mithilesh s/o Prayagnarayan Choudhary,
age 52 years, Occu : Business, R/o H.B.
Town, Flat No. 38, Bhandara Road,
Nagpur.

2. Chakkandtij Shankarutti Sudhakaran,
age 72 years, Occupation : Retired, r/o
Wadanapalli, Dist. Chittur, Kerala

... **APPLICANTS**

VERSUS

State of Maharashtra,
through the Police Station
Officer, P.S. Deoli, Tq. Deoli,
District Wardha.

... **NON-APPLICANT.**

Shri A.J. Thakkar, Advocate for the applicants.
Shri H.D. Dubey, A.P.P for the non-applicant/State.

CORAM : **VINAY JOSHI, J.**
DATED. : **24.06.2022.**

ORAL JUDGMENT :**ADMIT.**

2. Heard finally by consent of both the parties.
3. This application raises a challenge to issuance of non-bailable warrant by the Trial Court due to non-appearance. It is submitted that on 16.06.2022 due to personal difficulty, the applicants were unable to attend the Court. Therefore, they have applied for exemption, however, it was rejected and non-bailable warrant has been issued.
4. It is argued that the applicants have co-operated to the Trial Court and till date the evidence of three witnesses has been recorded. Perusal of Roznama indicates that most of the time the applicants remained absent, but sought exemption which was granted. It is informed that now, the Trial Court has posted the matter on 30.06.2022 for further evidence. Though the applicants have urged for cancellation of non-bailable warrant however, this is not the Forum where warrants issued by the Trial Court could be cancelled unless exceptional grounds are made out.
5. Certainly the Trial Court would be the best judge in the situation to take a call whether the warrant is to be cancelled or not.

The applicants undertake to appear before the Trial Court on 27.06.2022 and to seek for cancellation.

6. In view of that, petition could be disposed of by issuing certain directions. The warrant of arrest issued by the Trial Court against the petitioners shall be kept in abeyance till 27.06.2022, on which date both petitioners shall appear before the Trial Court and apply for cancellation of non-bailable warrant. The Trial Court shall pass the appropriate orders in accordance with law and facts and circumstances of the case.

7. The Application stands disposed of in aforesaid terms.

(VINAY JOSHI, J.)

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