

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

CRIMINAL WRIT PETITION NO. 397 OF 2022

1. Shailesh Mahadeorao Ramdham, aged about 42 years, Occupation Agriculturist, R/o Ward No. 9, at Post Karanja (Ghadge), Tal. Karanja (Ghadge), Dist. Wardha.

2. Sau. Priyanka w/o Lalitkumar Wanjari , aged about 38 years, Occupation Private Service, Presently, R/o Ambethan Chowk, Near Mayur Hotel, Chakan, Tah. Khed, Dist. Pune.

... **PETITIONERS**

VERSUS

1. State of Maharashtra,
through the Police Station
Officer, Police Station, Karanja
Ghadge, Dist. Wardha.

... **RESPONDENT**

Shri A. Anirudh, Advocate for the petitioners.
 Shri H.D. Dubey, A.P.P. for the respondent/State.

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

ORAL JUDGMENT :

RULE. Rule is made returnable forthwith.

2. Heard finally by consent of both the parties.

3. The petitioners are challenging the order dated 15.06.2022 by which the learned Trial Court has issued non-bailable warrant against them.

4. The petitioners are accused nos.4 and 8 in the prosecution i.e. Atrocity Special Case No. 12 of 2016. Since the accused were absent on the date fixed by the Trial Court, as a consequence non-bailable warrant was issued. On 15.06.2022 the petitioners have applied for exemption, however, the Trial Court declined to grant exemption as two witnesses were present. Likewise, by passing consequential impugned order, non-bailable warrant has been issued.

5. Learned Counsel appearing for the petitioners would submit that the petitioners were throughout present in the Court barring few exemptions. My attention has been invited to the Roznama to show that on most of the date, the petitioners remained present and co-operated to the Trial Court. It is submitted that on 15.06.2022,

petitioner No.1 (accused No.4) was unable to attend due to ill health whilst petitioner No.2 (accused No. 8) could not appear as she had gone to Pune. It is submitted that now the matter is fixed by the Trial Court on 27.06.2022 and on that date both petitioners would appear before the Trial Court.

6. It reveals from the Roznama that most of the time, the petitioners-accused were present in the Court. On 15.06.2022, they have also applied for exemption, however it was declined. It reveals from the record that non-bailable warrant was not issued for non-appearance for prolonged period. It is evident that since on 15.06.2022, the witnesses were present, the Trial Court has refused to exercise its discretion in granting exemption and had issued non-bailable warrant. Obviously, the purpose behind issuance of the non-bailable warrant is to secure the presence of the accused in the trial and nothing else. Both the petitioners have assured that they would appear before the Trial Court on 27.06.2022 and seek for cancellation of warrant.

7. 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.

8. The petition stands disposed of in aforesaid terms.

(VINAY JOSHI, J.)

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