

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 716 OF 2023**

Khushbu Dinesh Mehta

...Applicant

Versus

The State Of Maharashtra

...Respondent

....

Mr. Waqar Pathan Advocate for Applicant.

Ms. P. N. Dabholkar, APP for the Respondent – State.

....

CORAM : PRAKASH D. NAIK, J.**DATE : 7th JULY, 2023.**

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P.C.:-

1. The limited relief sought in this application is for cancellation of non-bailable warrant issued by learned 3rd Joint C.J.J.D. and learned J.M.F.C., Belapur vide order dated 1st July 2023.

2. The applicant is facing prosecution for offences under Sections 384, 465, 469, 384, 500, 503, 507 and 509 of Indian Penal Code and Sections 65(A), 67(A) of Information Technology Act.

3. Learned Advocate for the applicant submitted that, on the previous date of hearing, the applicant was present before the trial Court. On 1st July 2023, the application for exemption was moved along with application for adjournment. The learned Magistrate had rejected the application for

adjournment and issued non-bailable warrant. The next date before the trial Court is 5th August 2023. Applicant would remain present before the trial Court on that day. Her Advocate would also remain present and cross-examine the witness.

4. Learned APP submitted that, the order dated 1st July 2023 referred to the fact that the application for adjournment was not signed by Advocate for Applicant. It is not clear on what ground the application for adjournment and exemption was sought by the applicant.

5. From the order dated 1st July 2023 it appears that, the applicant was not present before the trial Court but application for exemption was preferred on her behalf. The application for adjournment was also preferred. It appears that, the said application was not signed by the Advocate for the applicant. However, it is not clear as to why the exemption was not granted. Be that as it may, considering the fact that, it does not appear that, applicant is protracting the trial by continuously remaining absent, relief sought in this application can be granted.

ORDER

- (i) Criminal Application No. 716 of 2023 is allowed.
- (ii) Impugned order dated 1st July 2023 issuing Non-Bailable Warrant is set aside.
- (iii) The applicant shall remain present before the trial Court on 5th

August 2023 which is the next date of hearing. The Advocate for the applicant shall proceed with the cross-examination of the witness.

(iv) Application stands disposed off.

(PRAKASH D. NAIK, J.)