

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.2669 OF 2023

Yathuri Associates & Ors. Petitioners

versus

M/s National Spot Exchange Ltd. & Anr. Respondents

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- Mr. Ratnesh M. Dube, Advocate for Petitioners.
- Mr. Yashpal Thakur a/w Ms. Jalpa Shah i/b. MZM Legal LLP
Advocate for Respondent No.1.
- Mr. Arfan Sait, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 03rd AUGUST, 2023

P.C. :

1. The Petitioners are the accused before the Metropolitan Magistrate, 33rd Court, Ballard Pier at Mazgaon, Mumbai, in C.C. No.8348/SS/2018. The Petitioners have challenged two orders. One prayer is for cancellation of non-bailable warrant issued against the Petitioner No.2 and the other prayer is to set aside the order dated 07/07/2023 passed by the said Court directing that there shall be no cross-examination on behalf of the Petitioners.

2. Heard Mr. Ratnesh M. Dube, learned counsel for the Petitioners, Mr. Yashpal Thakur, learned counsel for Respondent No.1 and Mr. Arfan Sait, learned APP for the State.
3. Learned counsel for the Petitioners submit that the Petitioner No.2 has no intention to evade the due process of law and he can establish his bonafides by remaining present before the trial Court on the next date. He submitted that the next date before the trial Court is 11/08/2023. He also submits that he would conclude the cross-examination within a period of three months from today.
4. Considering the statement made by learned counsel for the Petitioners, I am inclined to stay the warrant for some time, so that the Petitioner No.2 can remain present before the trial Court and establish his bonafides.
5. As far as the other prayer regarding denying the accused to conduct the cross-examination is concerned; in the

interest of justice, I am also inclined to allow that prayer, subject, of course, to the condition that the Petitioners shall not take wrong advantage of the permission to cross-examine. This would be in the interest of justice though learned counsel for Respondent No.2 has objected for grant of this relief. In my opinion, it would be in the interest of justice to permit the Petitioner No.2 to establish his bonafies and also to cross-examine the C.W.1, thereby giving fair chance to him. But if the Petitioners are deliberately delaying the trial, the trial Court is empowered enough to take steps to prevent such attempt on the part of the accused.

6. Hence, the following order :

ORDER

- (i) The non-bailable warrant issued against the Petitioner No.2 by the Metropolitan Magistrate, 33rd Court, Ballard Pier at Mazgaon, Mumbai is stayed till 12/08/2023. The Petitioner No.2 shall remain present before the said Court and make an appropriate application on 11/08/2023 for

cancellation of non-bailable warrant by establishing his bonafides.

- (ii) The order dated 07/07/2023 passed in the same case by the same Court denying the conduct of cross-examination on behalf of the Petitioners, is set aside.
- (iii) The Petitioners are permitted to cross-examine C.W.1. It is made clear that the learned Trial Judge shall not permit unnecessary adjournments on behalf of the Petitioners while conducting the cross-examination.
- (iv) The Petitioners shall conclude the cross-examination within a period of three months from today.
- (v) Both the parties shall co-operate with early disposal of the trial.
- (vi) With these observations, the Petition is disposed of.

(SARANG V. KOTWAL, J.)