

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

CRIMINAL APPLICATION NO.1235 OF 2023

Kantikumar Harakchand Jain

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Niteen Pradhan a/w Anthony Nadar & Maheen Pradhan, i/b
Shubhada Khot, Advocate for Applicant.

Mr. Arfan Sait, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th SEPTEMBER 2023

PC :

1. The Applicant has challenged the order dated 18th August 2023 passed by the Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai in C.C. No.669/PW/1993 whereby non-bailable warrant was issued against the Applicant.

2. Heard Mr. Niteen Pradhan, learned Counsel for the Applicant and Mr. Arfan Sait, learned APP for the State.

3. The case arises out of C.R. No.5/1993 registered at Cuffe Parade police station under Sections 353 and 506(I) of I.P.C. The incident allegedly had occurred on 1st January 1993. It is the

allegation of the first Informant- Raipurkar that, he was working as Personal Assistant to the then Home Minister for the State. On 1st January 1993 at about 5:00 pm, the Applicant was waiting outside the chamber of the Minister. When the Complainant came out, the Applicant asked him to show the papers. The first Informant refused. The Applicant snatched those papers from him and threw them back on his person. He also threatened the first Informant. On this basis, the FIR was lodged. It appears that the case is pending since then. In the meantime, the learned Magistrate had committed the case to the Court of Sessions vide his order dated 7th August 2019. In that order it was mentioned that the Accused i.e., the present Applicant had absconded. It appears that, thereafter, the matter was retained in the Magistrate's Court.

4. Learned APP pointed out that there is a latest G.R. mentioning that, the offences under Section 353 of I.P.C. are now triable by a Magistrate. Since the Applicant was not available, the impugned order was passed on 18th August 2023 issuing non-bailable warrant against the Applicant.

5. Learned Counsel for the Applicant submitted that the case is pending for about thirty years. The Applicant has no intention of evade the due process of law and he shall appear before the Court regularly. The statement is recorded and accepted.

6. In view of the statement, the Applicant can be given a chance to appear before the learned Magistrate and get the warrant set aside. Till such time, the Applicant can be protected.

7. Hence, the following order:

ORDER

i) The non-bailable warrant issued on 18th August 2023 by the Metropolitan Magistrate 23rd Court, Esplanade, Mumbai in C.C. No.669/PW/1993 against the Applicant, is stayed for a period of one month from today.

ii) During that period, the Applicant shall appear before the said Court and make an appropriate Application for setting aside that warrant. The

learned Magistrate shall decide such Application in accordance with law.

iii) With these directions, the Application is disposed of.

(SARANG V. KOTWAL, J.)