

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

**INTERIM APPLICATION NO.4066 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.106 OF 2020**

Hemantkumar K. Singh ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Sandeep Kumar Singh a/w Ms. Sneha Mishra, Advocate for the Applicant.

Mr. S.R. Agarkar, APP for Respondent – State.

**CORAM : S. M. MODAK, J.
DATE : 14th DECEMBER 2023**

P. C. :-

INTERIM APPLICATION NO.4066 OF 2023

1. Heard learned Advocate for the Applicant – accused.
2. His revision was dismissed on 11th September 2023 for want of prosecution. This Application is for restoration of Revision. An explanation is offered that the learned Advocate appearing for the Applicant is appointed by the CBI for some cases at Nashik and that is why, he was not present before the Court on that date. It is true that in Revision the legality of the order needs to be decided. So I intend to grant one opportunity to the Applicant to address his grievance.
3. In view of that, the following order :-

ORDER

- (i) Order dated 11th September 2023 is set aside and revision is restored to the file.

CRIMINAL REVISION APPLICATION NO.106 OF 2020

4. There is a request to grant ad-interim relief. My attention is invited to the order dated 23rd March 2022 there was a direction to trial Court to defer the proceeding. It is true that ad-interim relief was continued on 20th September 2022 and 3rd October 2022. Further more on 5th December 2022 ad-interim relief granted earlier was continued till 31st January 2023.

5. Learned APP pointed out that the Court has already issued bailable warrant against the Applicant as noted down in the order-sheet from the District Court Website.

6. In view of that, I am not inclined to grant ad-interim relief. The matter is before the trial Court on 26th December 2023.

7. Let the Applicant to appear before the concerned Court and may request for cancellation of bailable warrant and trial Court to consider it positively. Even if the trial Court will frame charge, it is made clear that it will be subject to outcome of this Revision Application.

8. There is earnest request on behalf of the learned Advocate to stay the proceeding. It is also contended that the first informant has also filed other complaints in which charge sheet under section 376 of Indian Penal

Code, 1860 (“IPC”) is filed. It is rejected because as per the provisions of Section 53-A of the Indian Evidence Act it is not permissible to assassinate the character of the prosecutor.

9. Let first applicant to appear before the Court and to pray for cancellation of warrant. Even I have already stated if such request is made let the trial Court to consider it positively. If it is so, I find no harm will be caused to the Applicant to go before the trial Court. The reason is this application is filed in the year 2020 and not argued earlier. So any Applicant cannot make use of the process of the Court for his own benefit.

10. If the trial Court will proceed with the recording of evidence, in that eventuality, the Applicant may reiterate the prayer for granting stay.

11. Stand over to **9th January 2024**.

12. Issue fresh notice to the Respondent No.2. Let local Police to give intimation to her.

13. It is told that the first informant is resident of Nepal. So let the Secretary, High Court Legal Services Authority to appoint her legal aid. Advocate for the Applicant to supply necessary papers to him.

[S. M. MODAK, J.]