

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1406 OF 2023

Ramavtar Ganeshram Tungariya & .. Applicants
Ors.

Versus

The State of Maharashtra & Ors. .. Respondents

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Ms.Ratna Jaiswal for the Applicants.

Mrs.M.R.Tidke for the State/Respondent.

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CORAM: BHARATI DANGRE, J.
DATED : 04th NOVEMBER, 2023

P.C:-

1. The present Application is filed and was circulated urgently by informing that a Non-Bailable Warrant is issued against the Applicants, who are arraigned as Accused Nos.2 to 6 and there is likelihood that they may be arrested. On expressing the urgency yesterday, the circulation was granted today.

When the Application is called out and when I perused the order dated 18/10/2022 passed by the Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai, it clearly reflect that since the Accused Nos.2 to 6 were found to be absent and they had not even bothered to file exemption application, it was

necessarily inferred that they had jumped the bail bonds, which was directed to be forfeited to the Government and Non-Bailable Warrant came to be issued.

When I specifically asked to the learned counsel for the Applicant, whether she had moved an application before the concerned Court for recalling of the order, she makes a categorical statement that she attempted to place the application before the learned Magistrate, but he refused to entertain the same.

I find no fault with the learned Magistrate as unless and until an application is duly filed, simply by tendering the application in the Court, it cannot be compelled to take up the matter for hearing.

2. In any case, the learned counsel for the Applicant submits that within a period of one week from today, such an application shall be filed and the request shall be made to the learned Magistrate to take up the same for hearing. In the wake of the aforesaid, I deem it appropriate to direct the Magistrate not to give effect to the order dated 18/10/2022 till 12/11/2023. However, it is clarified that the above protection is not granted on merits of the matter, but only in the wake of the urgency expressed before me. It is made clear that on 12/11/2023, the protection shall cease to operate.

The Application stands disposed off.

(SMT. BHARATI DANGRE, J.)