



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 CRIMINAL WRIT PETITION NO. 1843 OF 2023

SHAIKH IMRAN @ IRFAN SHAIKH HABIBODDIN
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for the Petitioner : Mr. Kulkarni Suvidh S.
APP for Respondent/State : Mrs. Pratibha J. Bharad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 11th JANUARY, 2024.

PER COURT :-

The learned APP waives service of notice on behalf of respondent.

2. By this petition, the petitioner has prayed for setting aside the order below Exhibit-67 in R.C.C. No.99 of 2019 of cancellation of bail.

3. The non-bailable warrant was issued against the petitioner in Regular Criminal Case No.99 of 2019. The application was moved for cancellation of non-bailable warrant. The learned trial Court refused to cancel the non-bailable warrant against the petitioner. Roznama shows that only for one day, he was absent. The learned trial Court felt that the medical papers which were submitted by the petitioner are not reliable. The learned advocate for the petitioner submitted that the petitioner remained absent only for one day and the said order is passed.

4. The learned APP for the respondent/State strongly opposed the petition and contended that the order passed by the learned trial Court is legal and correct.

5. The Roznama reveals that the petitioner remained absent only for one day and on application for cancellation of non-bailable warrant, the learned trial Court passed the order of cancellation of bail. Prior to cancellation of bail opportunity was not given to the petitioner to set-forth his defence. On his application for cancellation of non-bailable warrant, this order of cancellation of bail is passed. The trial Court failed to apply principle of natural justice i.e. audi alteram partem. For cancellation of bail, there must be special reason or reasons. This course of action is not legal and correct. The trial Court ought to have allowed or refused to cancel the non-bailable warrant. The impugned order, therefore, deserves to be set aside. It is set aside accordingly. The petition is allowed in terms of prayer clauses "C" and "D".

(SANJAY A. DESHMUKH, J.)