



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

925 CRIMINAL WRIT PETITION NO. 1878 OF 2023

BALAJI LIMBU IREWDAD
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for the Petitioner : Mr. Phad Avinash A.
APP for Respondent/State : Ms. R.P. Gaur
...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 28th June, 2024.

P.C.:

1. By this writ petition, the petitioner is challenging the legality and validity of the impugned order dated 13th September, 2023 passed below Exhibit-47 in Sessions Case No.8/2016 by the Additional Sessions Judge, Nanded, thereby rejecting the application filed for cancellation of non-bailable warrant by the petitioner.
2. It is contention of the learned counsel for the petitioner that offences punishable under sections 306, 363, 365, 344, 384, 324 read with 34 of the Indian Penal Code are registered against the petitioner and co-accused. The charge-sheet has been filed against the petitioner and the trial has been started. Due to some personal difficulty, the petitioner could not remain present before the trial Court for two consecutive dates. Hence non-bailable warrant was issued against the petitioner. Thereafter, the petitioner had filed application for

cancellation of non-bailable warrant, but the trial Court has rejected it. The learned counsel further submitted on instructions of the petitioner that the petitioner undertakes to appear before the trial Court regularly and without filing any exemption application, if the petition is allowed. Hence he requested to allow the writ petition.

3. It is contention of the learned APP that the incident is of the year 2014 and the Sessions Case was numbered in the year 2016. On three occasions, non-bailable warrants were issued against the petitioner. Before that one bailable warrant was issued against the petitioner. Trial could not proceed due to absence of the petitioner. Trial is more than five years old. The trial court has passed the reasoned order, hence no interference is required in it. She further submitted that after filing application for cancellation of non-bailable warrant, the petitioner was not present before the trial Court, his presence is must while hearing the application and she requested to dismiss the petition.

4. I have heard both the learned counsel. Perused the impugned order. In the impugned order trial Court has mentioned that the petitioner remained absent on three occasions and non-bailable warrant was issued against him. Proceeding of the trial could not proceed due to absence of the accused after framing of the charge. I do not find any infirmity in the order passed by the trial Court. Considering the undertaking given by the learned counsel on instructions of the petitioner, trial Court may decide the application for

cancellation of non-bailable warrant filed by the petitioner, on its own merits, freshly. The petitioner shall remain present before trial Court, while hearing of cancellation of non-bailable warrant application.

5. In view of the above, writ petition is disposed of.

[SHIVKUMAR DIGE, J.]

sga