

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

CRIMINAL APPLICATION NO. 140 OF 2024

Narrottam Babulal Vyas & Ors. ... Applicants

Versus

Drive India Enterprises Solutions Ltd.
Through Authorised Representative
Deepal Jain, Assistant Manager & Anr. ... Respondents

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Mr. Mudit Jain a/w Mr. Rahul Agarwal, Jasmin Purani, Mr. Sajid Sayed,
h/f. Agarwal & Dhanuka Legal Advocates for the Applicants.

Mr. Jitendra Chaudhary a/w Mr. Sunil D. Mishra, Advocate for
Respondent No.1.

Mr. Arfan Sait, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 30th JANUARY, 2024.

P.C.:

1. The applicants are facing prosecution under Section 138 of the Negotiable Instruments Act (for short “NI Act”). The order issuing process passed by the trial Court has been challenged by the Applicants before the Sessions Court by preferring Criminal Revision Application No.232 of 2022.

2. The said revision application is pending before the Sessions Court. Vide order dated 18th August 2022 the interim relief has been refused by the Sessions Court.

3. Learned Advocate for the applicants submitted that the next date before the trial Court is on 26th February 2024. In the past trial Court had twice issued warrant against the applicants which were cancelled. The applicants have challenged the order of process on the ground that the applicants are non executive independent directors and one of them is the Company Secretary. The learned Sessions Judge has refused interim relief but the revision application is not being heard. The trial Court is insisting for the presence of the applicants and for their absence non-bailable warrants were issued against them. The hearing of revision application may be expedited and in the meantime the applicants may be granted interim protection.

4. Learned counsel for the Respondent No.1/complainant submitted that the interim relief was refused by the Sessions Court vide order dated 18th August 2022. The Respondent No.1 has not delayed the proceedings. Although the applicants have contended that they are non executive independent directors, they can be prosecuted on the basis of the averments reflected in the complaint by invoking Section 141 of the NI Act. Hearing of the revision can be expedited but no interim protection be granted to the applicants.

5. It is pertinent to note that the revision application challenging the order of process is pending before the Sessions Court since August 2022. Interim relief has been refused to the applicants vide order dated 18th August 2022. The application is not heard for substantial period of time.

6. Considering these circumstances, I pass the following order :

ORDER

- i. The Sessions Court is directed to decide the revision application within a period of two months from the date of receipt of the order.
- ii. This order may be produced before the Sessions Court on the next date of hearing.
- iii. The applicants are exempted from appearing before the trial Court for a period of two months.
- iv. It is made clear that, this Court has not adjudicated this matter on the merits of the case.
- v. Criminal Application stands disposed off.

(PRAKASH D. NAIK, J.)