

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

CRIMINAL APPLICATION NO. 149 OF 2024

Anil Vadilal Choksi And Ors. ...Applicants

Versus

The State Of Maharashtra And Anr. ...Respondents

....

Adv. Manoj Borkar i/by Mr. Prasad Borkar, Advocate for the Applicants.

Mr. Y. Y. Dabake, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st FEBRUARY, 2024.

P.C.:

1. The Applicants are facing the prosecution vide C.C. No.557/SW/2022 before the Court of learned Metropolitan Magistrate, 65th Court at Andheri of offences under Sections 420, 406, 465, 467, 468, 471, 506(II) r/w 34 of Indian Penal Code (for short 'IPC').

2. On 9th January, 2024, the Advocate for the complainant had preferred an application for issuance of non-bailable warrant against the Applicants as they were not present before the Court. The learned Magistrate issued non-bailable warrant on the same day. The Applicants preferred an application before the trial Court for stay of warrant and gave an undertaking that the Applicants would remain present before the trial on the next date of hearing.

The learned Magistrate vide Order dated 9th January, 2024 stayed the execution of non-bailable warrant till the next date and directed the Applicants to remain present before the trial Court.

3. Learned Advocate for the Applicants submitted that the Applicant No.1 is aged around 91 years. The Applicant No.2 is the son of Applicant No.1 and Applicant No.3 is the nephew of Applicant No.1. They are aged around 58 years and 59 years respectively. The complainant has passed away. There was no necessity of issuance of non-bailable warrant. The Applicants apprehend that they would be arrested in the event they appear before the Court for cancellation of warrant.

4. It is pertinent to note that non-bailable warrant was issued against the Applicants on 9th January, 2024. The Applicants preferred an Application before the Court on the same day and sought stay of warrant with an undertaking that the Applicants would appear before the trial Court on the next date. The learned Magistrate stayed the warrant till the next date but directed the Applicants to remain present on next date.

5. Considering the factual matrix of this case and the age of Applicant No.1, I pass the following order;

ORDER

- i. Non-bailable warrant issued against the Applicants vide Order dated 9th January, 2024 passed by learned Metropolitan Magistrate, 65th Court at Andheri in C.C. No.554/SW/2022 is quashed and set aside.
- ii. The Applicant Nos.2 and 3 shall appear before the trial Court on the next date of hearing.
- iii. All the Applicants are at liberty to prefer an application for permanent exemption on the next date of hearing before the trial Court. If such application is preferred, the trial Court shall decide it in accordance with law.
- iv. Application stands disposed off.

(PRAKASH D. NAIK, J.)