

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO. 372 OF 2024**

Akash R. Thorat ...Applicant
Versus
1. State of Maharashtra
2. XYZ ...Respondents

Mr. Ammar Nizami for the Applicant.
Mr. S.A. Karmakar, APP for the Respondent/State.

**CORAM : N. R. BORKAR, J.
DATE : 2 MAY 2024.**

PC:-

1. By this application under Section 482 of the Code of Criminal Procedure, the applicant has challenged the order passed by the trial Court dated 21.6.2023 in Special Case No. 152 of 2018. By the impugned order, the trial Court had issued Non-Bailable Warrant against the present applicant, who is accused in the said special case.

2. This Court on 2.4.2024 passed the following order:

- “1. Heard learned counsel for the applicant.
2. Leave to amend so as to implead the victim as party respondent no.2.
3. Leave is granted. Amendment to be carried out forthwith.
4. After the amendment is carried out, issue notice to the respondent no.2, returnable on 23/4/2024. Learned APP waives service of notice on behalf of the State. The Investigating Officer to inform the respondent no. 2 the next date of hearing and that she has a right to be represented by an advocate or through legal aid.
5. The challenge in this application is to the issuance of non-bailable warrant against the applicant as he was not present on the dates fixed for hearing of the case. In the application, it is stated that there was a

miscommunication about the dates between the applicant and his advocate.

6. I have perused the roznama. In the past, on several occasions, the applicant has remained present before the trial Court.

7. Learned counsel for the applicant, on instructions, undertakes that the applicant will remain present on the next date of hearing and attend the trial regularly. Statement is accepted.

8. The pendency of this application shall not be construed as a stay to the proceeding before the trial Court. The trial Court to proceed. The applicant to remain present on the dates fixed for hearing of the case and co-operate with the trial Court.

9. Till next date, non-bailable warrant issued by the trial Court shall remain stayed.

10. Stand over to 23/4/2024."

3. It appears from the impugned order that the trial was fixed for recording evidence and victim was present. Therefore, no fault can be found with the impugned order. However, in view of the undertaking of the applicant that he will attend the trial regularly, recorded in the above order dated 2.4.2024, it would be appropriate to grant one more opportunity to the applicant.

4. Application is allowed.

5. The order impugned dated 21.6.2023 is quashed, subject to payment of costs of Rs.5000/-.

6. The applicant shall pay costs to the victim within a period of six weeks from today. If the same is not done, this order shall stand recalled without further reference to the Court.

(N.R. BORKAR, J.)