

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

**CRIMINAL WRIT PETITION NO.3132 OF 2024**

Arreda Homes Pvt. Ltd. and ors.  
V/s.

.... Petitioners

Veena Developers and anr.

.... Respondents

Adv. M.S. Adenwala for the Petitioners.

Mr. Sameer Reshamwala i/b. S.R. Legal for the Respondent No.1.

Ms. R.V. Newton, APP for the State.

**CORAM : SHYAM C. CHANDAK, J.**

**DATED : 31<sup>st</sup> JULY, 2024**

**P.C. :-**

1) Present Petition seeks for quashing and setting aside of a common order dated 12<sup>th</sup> July, 2024 below Applications at Exhibit-14 and Exhibit-15 in Criminal Appeal No.259 of 2023 passed by the learned Additional Sessions Judge, at Dindoshi, Mumbai. By the said Order, the learned Additional Sessions Judge allowed the Application at Exhibit-14 filed by Respondent No.1 seeking for issuance of non bailable warrant against the Petitioners, however, rejected the Petitioners' Application at Exhibit - 15 seeking for extension of time to furnish surety.

2) Rule. The Rule is made returnable forthwith and with the consent of learned Advocate for the parties, taken up for final hearing.

3) By Order dated 28<sup>th</sup> February 2024, below Application at Exhibit-10, the learned Additional Sessions Judge directed release of the Petitioners on bail on their executing a P.R. bond of Rs.15,000/- with one surety in the like amount each.

4) Learned counsel for the Petitioners submitted that, the Petitioners could not attend before the Appellate Court just on one occasion and furnish the surety. Said failure was due to some unavoidable reason. However, the learned Additional Sessions Judge did not consider that difficulty of the Petitioners and directly issued a non-bailable warrant against them instead of issuing a bailable warrant first. He submits that, there were no circumstances that the Petitioners would abscond, yet, their Application Exhibit-15 has been rejected. Therefore, the impugned Order is illegal. Learned counsel for the Petitioners submits that, the Petitioners have deposited the 20% amount of the compensation as directed by the Appellate Court. He submits that, the Petitioners are prepared to furnish the surety if reasonable time is granted for the same. He submits that, the Petitioners undertakes to attend the Appeal regularly.

5) Learned counsel for Respondent No.1 has opposed the Petition strongly.

6) Considering the aforesaid submissions by learned counsel for the Petitioners, looking at the nature of the alleged offence and the fact that the Petitioners were on cash bail during the course of the trial, non-bailable warrant issued against the Petitioners must be cancelled and the time to furnish surety should be extended. The Petition deserves to be allowed, accordingly. Hence, the following order :-

**- ORDER -**

(i) The impugned Order dated 12<sup>th</sup> July, 2024 passed by the learned Additional Sessions Judge, at Dindoshi, Mumbai below Applications at Exhibit-14 and Exhibit-15 in Criminal Appeal No.259 of 2023, is quashed and set-aside.

(ii) Non-bailable warrant issued against the Petitioners stands cancelled.

(iii) The Petitioners are granted 04 weeks time to furnish surety before the Appellate Court as directed in the Order dated 28<sup>th</sup> February, 2024 in Criminal Appeal No. 259 of 2023. Said 04 weeks time to start from the date of uploading of this Order.

7) Petition stands disposed of in the aforesaid terms. Rule is made absolute.

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**(SHYAM C. CHANDAK, J.)**