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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 5471/2022, CRL.M.A. 21737/2022**

VINOD SURHA & ORS.

.....Petitioners

Through: Mr. Pravir Singh and Ms. Anushka
Baruah, Advocates.

versus

STATE (NCT OF DELHI) AND ANR.

.....Respondents

Through: Mr. Ritesh Kumar Bhatti, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

06.09.2024

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1. The Petitioner has approached this Court challenging the Order dated 14.10.2022 passed by the Ld. Special Court (NI Act), Rouse Avenue Courts, New Delhi whereby the Non-Bailable Warrants (NBWs) have been issued against the Petitioners and notice was also issued to the surety.
2. The present petition arises out of the proceedings initiated under the Negotiable Instrument Act, 1881. Summons were issued. The list of dates indicates that applications for exemption from personal appearance were moved on behalf of the Petitioners on 03.08.2022, 30.03.2022 and 10.12.2021 before the Trial Court and, thereafter, the matter was listed on 14.10.2022 before the Court of Ld. Metropolitan Magistrate. It is stated that on 14.10.2022, the matter was shifted from the Court of Ld. Metropolitan Magistrate to a designated Court. It is stated that the Petitioners were not aware of the fact that the Court has been changed. It is stated that when the



Counsel for the Petitioners came to know about change of Court, he reached to the designated Court and posed a query to the Reader of the Court where he was informed that the matter had been adjourned to 09.12.2022 and Non-Bailable Warrants (NBWs) have been issued against the Petitioners and notice was also issued to the surety.

3. Material on record indicates that for one non-appearance, NBWs have been issued against the Petitioners.

4. It has been the consistent view of this Court that NBWs should not be issued at the first instance rather a Bailable Warrant should be first issued, then followed by NBWs.

5. It is stated by the learned Counsel for the Petitioner that there has been appearance on behalf of Petitioners on every subsequent date in the proceedings of trial or an application seeking exemption from appearance has been filed if the Petitioner was not in a position to appear.

6. In view of the fact that there is appearance on behalf of the Petitioners on every subsequent date in the proceedings of trial or an application of exemption from personal appearance has been filed on all subsequent dates, and in view of the fact that the Trial Court ought not to have issued the NBWs against the Petitioners at the first instance before issuing a Bailable Warrant, the Impugned Order dated 14.10.2022 is set aside.

7. With these observations, the petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

SEPTEMBER 6, 2024

S. Zakir