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

+ **CRL.M.C. 5885/2024 & CRL.M.A. 22509/2024**

MANIKANDAN B

.....Petitioner

Through: Mr. Nalin Kohli, Mr. Anshul Malik,
Ms. Shruti Agrawal & Ms. Nimisha
Menon, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Hemant Mehla, APP for State.
Mr. Nishant Mattoo & Mr. Ishan K.
Dubey, Advocates for R-2 with R-2 in
person.
ASI Sunil Kumar, PS Hauj Khas,
Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **01.08.2024**

CRL.M.A. 22510/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

CRL.M.C. 5885/2024

3. The present Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Article 227 of the Constitution of India has been filed on behalf of the petitioner seeking to quash or set aside the impugned Order dated 22.07.2024, vide which the application seeking cancellation of Non-bailable Warrants issued against the petitioner was dismissed and impugned Order dated 20.05.2024 vide which the



Non-bailable Warrants against the petitioner was issued by the learned Metropolitan Magistrate, South, Saket, in CC No. 12501/2018.

4. It is submitted that CC No. 12501/2018 is pending before the learned Metropolitan Magistrate, wherein the petitioner has been summoned and the Notice under Section 251 of the Code of Civil Procedure, 1973 is yet to be issued. In the interim, the petitioner, being the resident of Pondicherry and as well as of his ill health, has not been able to appear before the learned Metropolitan Magistrate, consequent to which, the Non-bailable Warrants have been issued against him.

5. Learned counsel for the petitioner submits that the petitioner has no intention of evading the process of the Court and he is willing to abide by any terms and conditions that may be imposed by the Court.

6. Learned counsel for the respondent No. 2/complainant submits that his only objection is that the correct residential address of the petitioner has not been disclosed by him and in his affidavit supporting the present petition address being given is of his Factory, consequent to which, the Non-bailable Warrants that are being issued by the learned Metropolitan Magistrate, are not getting executed due to non-furnishing of the correct address by the petitioner.

7. Learned counsel for the respondent No. 2/complainant further submits that the Notice under Section 251 of Code of Criminal Procedure, 1973 is yet to be framed.

8. **Submissions heard.**

9. Considering the rival contentions, the Non-bailable Warrants so issued against the petitioner are hereby cancelled.

10. However, the petitioner is at liberty to seek permission before the



learned Metropolitan Magistrate to appear through counsel and he may also consider accepting the Notice under Section 251 of Code of Criminal Procedure, 1973 through the counsel. The petitioner shall ensure his presence on every date either through counsel or through joining the proceedings virtually.

11. Further, whenever the physical presence of the petitioner is required, he shall not avoid appearing physically.

12. As regards to non-furnishing of correct address by the petitioner, the petitioner is also directed to furnish his permanent and present residential addresses on affidavit within seven days, before the learned Metropolitan Magistrate.

13. Learned counsel for the respondent No. 2/complainant submits that the directions may be issued to the learned Trial Court to expedite the trial since both the parties are senior citizens. However, counsel for the respondent No. 2/complainant is at liberty to make this request before the learned Metropolitan Magistrate.

14. With the aforesaid directions, the present petition is disposed of along with the pending application.

NEENA BANSAL KRISHNA, J

AUGUST 1, 2024
S.Sharma