

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3774 OF 2025

Nitesh Rane

.Petitioner

Versus

Sanjay Rajaram Raut & anr.

.Respondents

Mr. Milan Desai, Advocate, for the Petitioner

Mr. H. J. Dedhia, APP, for Respondent No. 2 - State

CORAM : S. M. MODAK, J.

DATE : 17.07.2025

P. C.

1. Mentioned. Not on board. Taken on board.
2. Heard Mr. Desai, learned Advocate for the Petitioner and Mr. Dedhia, learned APP for Respondent No. 2 – State.
3. Mr. Desai, learned Advocate for the Petitioner submitted that in fact, learned Advocate for the Complainant has made a statement before the Revisional Court that he will not proceed with the trial.
4. Respondent No. 1 is the Complainant in a private case filed under Section 500 of the Indian Penal Code, 1860. The Order of issuance of process is the subject matter before the learned Additional Sessions Judge, Greater Bombay. It is submitted that the Revision Application is part heard and now it is fixed on 19.08.2025

for further arguments.

5. Learned Magistrate has granted exemption till further Orders vide Order dated 02.06.2025. A copy of the Order is on page No. 28. Exemption is granted till the time for further passing of orders.

6. The grievance is that when such Order was passed, learned Magistrate was not justified in issuance of non-bailable warrant on 26.06.2025. It was on the Application of the Complainant. It is true that notice is not issued to Respondent No. 1 – Complainant but if we read both the Orders, certainly the Orders cannot be sustained in the eyes of law. **The reason** is that when permanent exemption was granted until further Orders and if the learned Magistrate feels that presence of the Petitioner is required (either for recording of plea or otherwise), he should have given directions to the Petitioner to remain present and if the Petitioner has remained absent thereafter this issuance of non-bailable warrant could have been justified.

7. It is true that the Accused has right to challenge the Order of issuance of process and at the same time, the Complainant has right to request the trial Court to proceed with the matter, if there is no stay granted by the Revisional Court.

8. In this case, it is not the Petitioner's case that the Revisional Court has granted stay. In such eventuality, a plea has to be recorded. Under these circumstances, the Petitioner is at liberty to point out to the learned trial Court the documents relating to the filing of the Revision Application and the documents showing stay granted by the Revisional Court. If there is no stay, learned Magistrate is

justified in recording a plea of the Accused. It is made clear that in such eventuality, if the learned Magistrate will record a plea, it will be subject to outcome of the Revision Application. That is to say, if the Accused succeeds in Revision Application then a plea as well as complaint can be disposed of.

9. Subject to the aforesaid observations, the following Order is passed.

O R D E R

- (i) The Order of issuance of non-bailable warrant dated 26.06.2025 passed in Case No. SS/2500102 of 2023 is quashed and set aside.
 - (ii) The Petitioner is directed to appear before the trial Court on **29.07.2025**.
 - (iii) The trial Court to list the matter on **29.07.2025**.
10. The Petition stands disposed of.

(S. M. MODAK, J.)

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SUDHAKAR
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by ANAND
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