

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

CRIMINAL WRIT PETITION NO. 3927 OF 2025

Marzban Keki Ilaviya and Anr.

...Petitioners

Vs.

The State of Maharashtra

...Respondent

Adv. Tajammul Khan	Advocate for the Petitioners
Ms. S. E. Phad	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 28th JULY 2025

P. C. :-

1. Heard learned Advocate for the Petitioner Nos. 1 and 2 and learned APP.

2. The case is pending before the Court of JMFC at Kurla. The offences are under Sections 419, 420, 406, 465, 468, 471, 406 read with 34 of the Indian Penal Code. The Accused No. 3 has filed Criminal Writ Petition No. 713 of 2022 for quashing of the F.I.R.. The Division Bench as per order dated 21.09.2022 has stayed the proceedings.

3. On 03.07.2025, both the Petitioners could not remain present and that is why they filed an application for their exemption. The learned Judge rejected it because it was not accompanied by the medical papers. It compelled the trial court to issue a non-bailable warrant against these Petitioners.

4. For long duration these Petitioners were behind bar. Certain roznamas are annexed. In some of them the presence of these Petitioners is marked. The contention is that the trial Court was harsh in issuing the non-bailable warrant, whereas the Petitioners have never disrespected the process of the Court. It is their submission. The record does not show that they have misused the liberty of granting of bail. Through their learned Advocates, they assure that they will appear before the trial Court. When such assurance is given, the trial court is required to accept it. The roznama does not show that the earlier such harsh process was issued against them. In view of the same there is every reason to believe that the learned trial Judge wrongly issued non-bailable warrant.

5. The Petitioners apprehend that if they appear before the trial Court on their own, there is every possibility that they will be taken

into custody. It is possible. Even if stay is granted on the petition of the accused no. 3, it is for the learned trial Court judge to decide the line of action for proceeding in the case.

6. In view of that the following order:-

ORDER

- (i) The Writ Petition is allowed.
 - (ii) The order dated 03.07.2025 thereby issuing non-bailable warrant against these Petitioners by the Court of Metropolitan Magistrate, Kurla, Mumbai in CC No. 387/PW/2022 is cancelled.
 - (iii) The Petitioners are directed to appear before the trial Court on 11.08.2025.
 - (iv) The trial Court to take a call what shall be done about the case against these Petitioners.
7. With these observations, the Writ Petition is disposed of.

[S. M. MODAK, J.]