

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
REVISION APPLICATION NO.207 OF 2025**

Bashir Yasin Shaikh

...Applicant

Vs.

State of Maharashtra

...Respondent

Mr. Prashant G. Pandey i/by W3Legal LLP for the Applicant.
Ms. S. G. Talhar, APP for the State.

**CORAM : ADVAIT M. SETHNA, J.
DATE : 14 MAY 2025
(VACATION COURT)**

P.C.:

1. This application is filed by the applicant with the substantive prayer being to quash and set aside the order dated 21 April 2025 passed in Criminal Appeal No.200265 of 2018 by the Sessions Court, Dindoshi (Borivali Division) on exhibit 21 and 20 in the said criminal appeal.

2. Heard learned counsel for the parties. Mr. Pandey, learned counsel for the applicant would at the very outset submit that the order of proclamation dated 21 April 2025 issued by the trial court is bad in law. This is primarily on the ground that when the application for cancellation of the warrant was very much alive and pending before the trial court on the said date, such order could not have been passed in law. He would submit that acting in a manner unknown to law, the trial court has rushed in passing

the order of issuing the proclamation against the applicant purely on the ground that he was not present. Mr. Pandey would dispute this position and submit that such presence cannot be insisted as that is not what law would mandate.

3. Learned APP would oppose the application. However, she would fairly submit that there is some substance in the submission of Mr. Pandey to the extent that pending the hearing on the applicant's application on cancellation of warrant, such order of proclamation ought not to have been passed. She would further submit that the applicant can appear before the trial court as the impugned order was passed mainly on the premise that he was avoiding appearance before the said court.

4. In my prima facie view, there is substance in the submission of Mr. Pandey. The roznama dated 21 April 2025 clearly indicates that the impugned order was passed on the said date without considering the fact that the application for cancellation of warrant is pending. The Trial Court also insisted on the personal presence of the applicant on the date of hearing of the application of the applicant for cancellation of non bailable warrant issued by the Trial Court. Mr. Pandey has relied upon a compilation of judgments, which I am not going into at this stage. However, it would be apposite to refer to a judgment of this Court in the case of ***Arunkumar N.***

*Chaturvedi Vs. The State of Maharashtra & Anr.*¹, where the Court has categorically observed that it is high time that this Court lets the Magistrate note that the appearance of the applicant/accused is not necessary when application for cancellation of warrant is made. Accordingly, the Court in that case canceled the non bailable warrants issued against the applicant. Such decision of this Court ought to have been considered by the Trial Court, in the given facts and circumstances of the proceedings.

5. After hearing learned counsel for the parties, in the interest of justice, the following order is passed:-

ORDER

- i. The applicant, through his advocate, is directed to remain present before the Sessions Court, Dindoshi (Borivali Division) on 30 May 2025 with a further application supported by relevant judgments that the applicant would like to place for consideration of the trial court on this issue.
- ii. It is open to the trial court to take an appropriate decision in accordance with law including the issue of the presence of the applicant during the hearing of such application for cancellation of his non bailable warrant.

¹ 2013:BHC-AS:31739

6. Mr. Pandey has an apprehension that in the event the applicant appears before the trial court, he may be taken into custody. However, this Court is confident that the learned Sessions Judge would act in accordance with law and take the necessary steps as the law would mandate, after hearing the parties. Thus, in my view, such apprehension of Mr. Pandey would be put to rest, once appearance is made before the Trial Court in these proceedings, as noted above.

7. With the above directions/observations, the Revision Application stands disposed of.

[ADVAIT M. SETHNA, J.]