
(1991) 11 BOM CK 0023

In the Bombay High Court

Case No : Criminal Application No. 2881 of 1991

Ambalal Punamchand Rashamwala

APPELLANT

Vs

State of Maharashtra and another

RESPONDENT

Date of Decision : 20-11-1991

Acts Referred:

Citation : (1992) CriLJ 2373

Hon'ble Judges : A.A. Cazi, J

Bench : Single Bench

Advocate : In person, for the Appellant; B.G. Vaidya, Assistant Public Prosecutor, for the Respondent

Judgement

1. The petitioner seeks (a) an anticipatory bail, and (b) order to respondent No. 1 (State of Maharashtra) not to execute the fresh non-bailable warrant which has been issued in Case No. 9/S/81 by the learned Metropolitan Magistrate of Tis Hajari Court, Delhi and to stay execution of that warrant till 18th December 1991.

2. As far back as 10 years ago in 1981 a criminal case was filed by respondent No. 2, Bashir Beg, against the present petitioner. It appears that the applicant has attended that Court several times and has even engaged Advocate Dinesh Chawla from Delhi to conduct his defence. The matter in the Delhi Court was fixed on 9th September 1991. He could not attend the Court on 9th September 1991 and has pointed out various reasons as to why he could not attend the Delhi Court on that date. As regards his Advocate not attending the Court he has pointed out that the Advocates of Tis Hajari were on strike. Thereafter the petitioner received a letter dated 10th October 1991 from his surety, Shri Shyam Sunder informing the petitioner that the learned Metropolitan Magistrate had issued a fresh non-bailable warrant against the petitioner because of his absence in the Court and had now fixed the next date as 18th December 1991 for trial. The petitioner also received a letter dated 5-10-1991 from his Advocate informing him that as the Advocates were on strike he had not appeared in the Court of the learned Metropolitan Magistrate and therefore the learned

Metropolitan Magistrate had issued a fresh non-bailable warrant against the petitioner and had adjourned the case to 18th December 1991. The petitioner says that he had already booked a ticket for 14th December 1991 and he would leave Bombay on 14th December 1991 by Paschim Express by 11 a.m. and that he would go to Delhi and then he would get the non-bailable warrant cancelled, and he undertakes to remain present in the Tis Hajari Court of the learned Metropolitan Magistrate, Smt. Sangita Dhingare on 18th December 1991 to face the trial.

3. The present application is clearly misconceived . No such anticipatory bail can be granted after a Magistrate has issued a warrant. The application is dismissed.

4. Application dismissed.