



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2579 OF 2025

Arjun Amarjeet Rampal

...Petitioner

Vs.

Income Tax Department & Anr.

...Respondents

Mr. Swapnil Ambure a/w A. Nair i/by Naik Naik & Co. for the Petitioner.

Mr. Sandeep Gupta i/by P. A. Narayanan for Respondent No.1.

Ms. P. P. Bhosale, APP for State.

CORAM : ADVAIT M. SETHNA, J.

DATE : 16 MAY 2025

(VACATION COURT)

P.C.:

1. This petition is filed under Article 482 of Code of Criminal Procedure, 1973 and under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023. The petition primarily assails order dated 5 December 2019 of issuing process against the petitioner and order dated 09 April 2025 passed by the Additional Chief Metropolitan Magistrate, 38th Court at Ballard Pier, Mumbai in CC No. 466/SW/2019 issuing non bailable warrant against the petitioner. The learned counsel for the petitioner today before the Vacation Court would restrict his prayer of the impugned order dated 9 April 2025 passed in CC No. 466/SW/2019, pursuant to which a non bailable warrant was issued by the trial court against the petitioner for offence punishable under Section 276C (2) of the Income Tax Act, 1961 ("IT" Act).

2. The petitioner would submit that his Advocate on 9 April 2025 had filed a Vakalatnama on behalf of the petitioner along with an application for exemption from an appearance on the said date. However, the learned Magistrate was pleased to reject the application for exemption on the observations that the accused had failed to comply with the bail provisions.

3. Having perused the provisions of Section 276C (2) of the IT Act under which the maximum sentence is only three years and the offence is bailable in nature, which the parties would not dispute.

4. The learned Magistrate however not taking into consideration such position, has mechanically passed the order issuing the non-bailable warrant against the petitioner in a bailable offence. On a perusal of the said order, it is clear that no reasons are recorded. In my view, it is a cryptic order which lacks application of mind. This would cause prejudice to the petitioner in the given the facts and circumstances as he would face an order of non bailable warrant in a case of bailable offence. Further according to the learned counsel for the petitioner, the Advocate for the petitioner was very much present when the said order dated 9 April 2025 was passed, which was overlooked by the learned Magistrate.

5. In such circumstances, such order would be contrary to law. The learned counsel for the revenue would seek time for instructions today. However, fairly he would not oppose this limited relief sought for by the

petitioner at this stage.

6. In the above facts and circumstances, interest of justice would be served by passing the following order:-

ORDER

- i. The order dated 9 April 2025 passed by the Additional Chief Metropolitan Magistrate, 38th Court at Ballard Pier, Mumbai is quashed and set aside.
- ii. This order will not affect the proceedings on merits filed before the learned Magistrate which shall continue in accordance with law.

7. As far as the other prayers are concerned with regard to challenging the order dated 5 December 2019 of issuance of process against the petitioner which is assailed before this Court and pending, shall be placed before the regular Court for further consideration on 16 June 2025.

8. Learned counsel for the revenue shall take instructions and file a reply on or before the adjourned date with an advance copy to be served to the Advocate for the petitioner.

9. List the proceedings on **16 June 2025** before the Regular Court.

[ADVAIT M. SETHNA, J.]