



MHRG160001582022

ORDER BELOW EX. 10 OF SUM CRI. CASE No. 71/2022

Accused has filed present application and requested for cancellation of bailable warrant in absence of accused.

02. Ld. Advocate for the complainant filed his say at ex.12 and submitted accused has filed present application intentionally. This court issued bailable warrant against accused. Personal presence of accused is necessary for cancellation of bailable warrant. However, neither she has executed bail bonds to remain present in the court nor she personally remained present in the court. Due to absence of accused case prolonged and complainant is facing injustice. Hence, requested to reject present application.

03. Heard ld. Advocate for the complainant and advocate for the accused. Ld. Advocate for the complainant emphasised in his argument no document is on record which reflects inability of accused to remain present personally in the court. Therefore, he requested to reject present application.

04. Ld. Advocate for the accused argued factual aspects of present case and submitted accused is resident of Mumbai, she is being lady unable to remain present each and every fix date. It is further submitted, accused being resident of other city leniency may be shown towards the accused and warrant may be cancelled. Ld. Advocate for the accused relied on decision of *Hon'ble High Court Criminal Writ Petition No. 4429/20113 Arunkumar N. Chaturvedi*

Vs. The State of Maharashtra and another decided on 24/12/2013 and submitted accused can apply for cancellation of warrant through his advocate.

05. Perused application, say. Heard argument of both ld. Advocates. It appears present case is in respect of sec.138 of Negotiable Instrument act. It appears accused is resident of Mumbai. However, it appears present case is summons case. Accused applied for cancellation of bailable warrant through advocate. However, perused decision of Hon'ble High Court. It appears Hon'ble High Court directed to consider merits of case and its pros and cons. Considering this aspect it appears, since service of summons accused not appeared in the case. She appears through her advocate. Present application has been pending since 22.08.2023 and till today she failed to appear in the court. Despite of her absence in the court, she failed to apply for bail also. It is the argument of the ld. Advocate for the complainant due to absence of accused complainant is facing injustice.

06. Considering above cited decision of Hon'ble high court it appears accused he may apply for cancellation of warrant through his advocate. Thus, do not find any impediment to cancel the warrant of accused in her absence. Hence, proceed to pass following order.

-:ORDER:-

01. Bailable warrant is cancelled
02. Accused to remain present before the court on next fix date.

Date:-28.08.2024
Pali

(R.A.Shivratri)
Judicial Magistrate F.C.,Pali