

MHST140017832025



ORDER BELOW EXH. NO.29 IN CRI.M.A.NO.209/2025

**Santosh Traders Taradgaon Through Santosh Sadashiv Gaikwad
V/s.**

Chatrapati Agro Tech Pvt Ltd. Through Santosh Vitthal Bathe & Ors.

This is an application filed by complainant for setting aside no say order passed below Exh.27. According to complainant the accused has filed application below Exh.27 for cancellation of N.B.W. The Court called say of complainant on the application. However, mistakenly the complainant could not file their say on the application. Therefore, no say order was passed against complainant. In order to decide the application Exh.27 on merit, it is necessary to give chance to the complainant to file his say. Hence, he prayed to allow the application. The Ld. Advocate for accused has filed his say on the back side of the application. According to him, in present case as per Section 421 of Cr.P.C. the warrant for recovery of fine amount need to be issued to the collector. However, order of non-bailable warrant was passed against the accused. In Arun Kumar Vs. State, the Hon'ble Bombay High Court ruled that, N.B.W. can be cancelled in absence of the accused. While passing N.B.W. order the procedure contemplated under Section 421 of Cr.P.C. is not followed.

2. I read the application and say. Record shows that, this Court vide order below Exh.05 issued N.B.W. warrant against present non-applicant no.1 and 2 who were accused in S.C.C. No.945/2020. By filing application Exh.27 the non-applicants requested to set aside N.B.W. order against them. In such situation say of complainant was

called. However, he failed to file say. Considering the reasons given in application Exh.29, it is necessary to give chance to complainant to file his say. If application Exh.27 is decided without say of complainant, then it will caused hardship to the complainant. It is also necessary for fair trial and for principal of natural justice. Hence, the application is need to be allowed. Considering delay caused by complainant some costs need to be imposed. Hence, the following order.

ORDER

The application Exh.29 is allowed subject to costs of Rs.300/- to be payable to the accused on or before next date.

Phaltan.
Date-02.05.2026

(A.S.Satote)
Judicial Magistrate First Class, Phaltan.