

MHGA030010272023



IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
GADCHIROLI

(Presided by Shri. S.P. Sadafale)

R.C.C. No. 129/2023

State-Vs- Astik Gulabrao Rathod+2

ORDER BELOW EXH.47

(Passed on 20.03.2025)

By this application accused persons are soliciting to cancel warrant issued against them with the reason that, they were engaged with treatment of accused No.2 and could not present on date fixed. It is opposed strongly on the ground that, the accused failed to comply with order below Exh.32. Neither accused nor their counsel remained present to conduct the proceeding. Application is falsely made with xerox document with concealing material fact from this Court. On the other hand, prosecution is diligent and leading evidence regularly. Considering no substance, application is liable to be rejected with heavy costs.

2] Heard learned counsels for both the parties.

3] The prosecution presented charge sheet against the accused persons u/s. 498-A, 324 and 323 r/w. 34 of the Indian Penal Code. In which the charge against the accused is framed on 9.12.2024 and prosecution also lead evidence of informant. However on the day fixed, accused were exempted and cross-examination of informant was

deferred. On 17.2.2025 witness remained present, but neither accused nor their counsel remained present on called and therefore, warrant of arrest was issued. In the mean time prior to the next date accused appeared and sought for cancellation of warrant. They also relied upon prescription of Doctor to accused No.2 showing her eye-ailment. It appears that the accused seeking cancellation of warrant immediately issuance thereof and their prayer is supported with the relevant document. However, witness remained present on the last date and therefore, she deserves costs of her presence.

4] Considering above fact and circumstances, no purpose would be served in keeping the accused in jail. In catena of cases Hon'ble Apex Court made it clear that the bail is rule and jail is exception. Recently Hon'ble Apex lead down guidelines for releasing of under trial prisoner as early as possible by modification of unwarranted conditions against them. Thus, the accused are showing their bonafied to get the warrant cancelled and assuring their presence in future dates.

In the result, following order is passed.

ORDER

1. Application is allowed.
2. Warrant issued against the accused persons are canceled and called back, subject to payment of costs of Rs.2,000/- to the informant for her presence before the court on last date.

Date- 20-03-2025.

(S.P Sadafale)
Chief Judicial Magistrate
Gadchiroli