

Criminal Misc.application No. 763/2005

- ## Versus

- ## Respondents

In the Sessions Trial prosecution witnesses were examined on 24.10. 2005 and the statement of prosecution witness No. 3 was recorded. It was detected before the trial court that there was some impersonation of the sureties. It was detected that name of

the surety was different while the photographs which has been affixed on the surety bond was of different person.

The trial court took a serious note of it and issued non bailable warrants against the petitioners who stood surety for the accused persons in the sessions trial.

Feeling aggrieved by the aforesaid order dated 24.10.2005 passed by the Sessions Judge, Nainital, this petition has been preferred before this court.

Heard Sh. A.K .Joshi, learned counsel for the petitioner, learned AGA and perused the record.

The learned counsel for the petitioners has submitted that the learned Sessions Judge has committed a manifest error of law in issuing the non-bailable warrants against the petitioners without ascertaining the facts as to whether they have really stood the Sessions Judge failed to appreciate that there is no case under Section 340 of the Code of Criminal Procedure made out against the petitioners.

I fail to appreciate the arguments advanced by the learned counsel for the petitioners.

I do not find any abuse of process of court. I also could not find on record that any mandatory provisions of law has been violated by the learned court below.

The contention raised by the learned counsel for the petitioners relates to the factual aspect of the matter which can be assessed and examined by the trial court during the course of trial.

I do not find any ground to entertain this petition and the same is liable to be dismissed.

Accordingly the petition is dismissed in limine.

However, in case, if the petitioners moves an application before the court below for recalling the non-bailable warrants issued against them the same should be disposed of expeditiously according to law.

(B.C. Kandpal,J)

29.10.2005

nbj