

**Ankit Vs. Keshavlal**  
**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS**  
**20TH COURT, MAZGAON, MUMBAI**

**C.C. No. 41/SS/2016**  
**ORDER BELOW EXH. 133**

Accused no.4 Bhavin is absent on repeated calls. None has appeared for him. No application is placed on record on his behalf. He has thus failed to file say to present application. Earlier, upon his appearance, the plea is recorded below Exh.38. The particulars of the offences are read over to him to which he responded and claimed to be tried. Evidence affidavit of Asif CW1 Exh.42 is placed on record on 06.10.2017.

2 Accused no.4 thus got an opportunity to respond to the plea. Examination in chief Exh.42 is placed on record when he was appearing in person or through his then learned advocate till 29.10.2021. Thereafter, non bailable warrants and proclamation under section 82 of the Code of Criminal Procedure are issued to secure his presence on account of his consistent absence.

3 The police have reported below Exh.128 that publication of the proclamation is done in presence of panchas on 12.06.2025. It is supported with general diary details which would indicate that upon inquiry made with some witnesses, it is transpired that whereabouts of said Bhavin are not traceable.

4 It is apparent that despite several warrants to secure presence of accused Bhavin, his presence could not be secured. There is thus a reason to believe that he is avoiding to appear and participate in the trial and unwilling to record his statement.

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In the case laws :-

**Indian Bank Association and Others V/s. Union of India,**  
Writ Petition (Civil) No. 18/2013, it is observed that, on appearance of an accused he should respond to the plea under Section 251 of the Code to enable him to enter his plea of defence and the case is to be fixed for defence evidence unless an application is made by the accused under Section 145 (2) for recalling the witness for cross-examination.

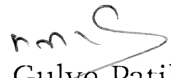
**Prakash Chimanlal Sheth Vs. T. Ramalingam Nadar & Ors,**  
Criminal Application No. 490 of 2020, 14.09.2022....., the accused remained absent to record the Statement despite issuance of non bailable warrants. In this backdrop, the Hon'ble the High Court has allowed the application of the complainant by dispensing with the statement.

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It is therefore noted that accused no.4 Bhavin Shah has failed to appear and respond to the evidence which is adduced against him. He has thus refused to avail said opportunity to explain the circumstances appearing against him. Hence, following order is passed.

**ORDER**

The case be listed on next stage without statement of accused no.4 Bhavin under Section 313 of the Code of Criminal Procedure.

  
(V.B. Gulve-Patil)

Date : 13.08.2025

Judicial Magistrate First Class  
20<sup>th</sup> Court, Mazgaon, Mumbai.