

Order below Exh.26 in M.A.C.P. Darkhast No.30/2018
(CNR No. MHNS100012242018)

By this application filed under Order XXI Rule 38 of C.P.C., 1908 D.H. has prayed for issuance of arrest warrant against J.D. on the ground that J.D. has not paid the remaining decretal amount.

2. I have heard Ld. Advocate for D.H. and also perused record of this Darkhast.

3. Record shows that on earlier occasion my Ld. Predecessor issued arrest warrant against J.D. by passing order dated 16.01.2025 below Exh.14. Thereafter J.D. was arrested in execution of arrest warrant and produced before my Ld. Predecessor on 4.3.2025 and at that time J.D. expressed his readiness to deposit Rs. 25,000/- and also gave an undertaking to deposit Rs. 1,00,000/- and to deposit further balance amount within one month. So my Ld. Predecessor by passing order dated 4.3.2025 below Exh.15 directed J.D. to deposit Rs.25,000/- on that day in the court and further directed J.D. to deposit Rs.1,00,000/- on the next day i.e. on 5.3.2025 and further directed to pay the balance amount within one month from the date of that order and thereafter J.D. was released on that day with direction that if he fails to comply the order further action would be taken against him.

4. Record further shows that thereafter on the next day i.e. on 5.3.2025, J.D. deposited Rs. 1,00,000/- in this proceeding. Record also shows that on 4.3.2025 J.D. by filing pursis mentioned that he has already deposited Rs.25,000/- and he is going to deposit Rs.1,00,000/- on 5.3.2025 and that he is making preparation to deposit remaining decretal amount within one month and that pursis was read and recorded.

5. Record also shows that in the meantime on 15.7.2025, matter was sent for mediation but Ld. Advocate-Mediator sent report

that mediation has been unsuccessful. Under the circumstances it appears that J.D. has means to pay decretal amount but he refuses or neglect to pay the same and therefore the issuance of arrest warrant against J.D. for the remaining decretal amount deserves to be allowed subject to condition that D.H. shall pay the subsistence allowance.

6. Considering the fact that prices of the essential commodities have been increased since time the amount of subsistence allowance mentioned in the Civil Manual and therefore, I am of the view that DH should be directed to pay minimum Rs.225/- per day for J.D. as subsistence allowance and D.H. is directed to deposit the subsistence allowance for the period of 7 days i.e. one week.

7. Record further shows that by filing an application at Exh.23, DH sought permission to deposit Rs.4,200/- as subsistence allowance for J.D. and said permission is granted.

8. For the reasons stated above, application deserves to be allowed. Hence, I pass following order ;

ORDER

1. Application is allowed.
2. Issue arrest warrant against J.D. for the recovery of remaining decretal amount with interest and costs subject to condition that D.H. shall pay subsistence allowance of Rs.225/- per day for J.D. for the period of seven days i.e. total Rs.225/- x 7 = Rs.1,575/-.
3. After the arrest of J.D. he shall be produced before this Court and thereafter this Court shall ask J.D. whether he is ready to pay remaining decretal amount and thereafter it shall be decided as to whether he should be sent to Civil Prison or not.

Date : 07.10.2025
Place : Niphad

(Abdussalam A.A.Shaikh)
District Judge-1, **Niphad.**