



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION (STAMP) NO.6344 OF 2026

Anoj Arvind Menon : Petitioner
Versus.
The State of Maharashtra : Respondent.

Mr. Vishwajit Sawant, Senior Advocate a/w Mr. Aditya Mithe
i/by Maniar Srivastava Associates for the Petitioner.
Mrs. Rajeshree Newton, APP for the Respondent/State.
ACP Shubhada More, ACB Mumbai present.

CORAM : ASHWIN D. BHOBE, J.

DATED : 01 APRIL 2026

PC:-

1. Heard Mr. Vishwajit Sawant, learned Senior Advocate for the Petitioner, and Mrs. Rajeshree Newton, learned APP for the Respondent/State.
2. The limited grievance of the Petitioner (Accused No.7) in this petition is that a Non-bailable Warrant dated 23rd March 2026 (hereafter "impugned NBW") was issued by the Additional Sessions Judge, Court No. 15, City Sessions Court, Mumbai (hereafter "Sessions Court"), without the Petitioner



even being served with the summons in Special Case No.0102528/2024.

3. Mr. Vishwajit Sawant, the learned Senior Advocate for the Petitioner, submits that since the Petitioner was not even served with the summons for appearance in Special Case No. 0102528/2024, the impugned NBW could not have been issued to the Petitioner. To clarify, he states that the Petitioner was unaware of the case being launched and that the Sessions Court had taken cognisance of it due to the absence of any summons. He refers to the Roznama produced in this petition and states there is no reference to the Petitioner having been served with the summons. He submits that this oversight led the Sessions Court to issue the impugned NBW against the Petitioner. He submits that the impugned NBW is illegal. He submits that the Petitioner suffers serious injury due to the issuance of the impugned NBW.

4. Mr. Vishwajit Sawant, the learned Senior Advocate for the Petitioner, on instructions from the Petitioner, submits that the Petitioner is willing to appear before the Sessions Court on 15th April 2026, which is the next date scheduled in Special Case No. 0102528/2024, and to submit himself to the orders that may be passed by the Sessions Court on his appearance.

5. Mrs. Rajeshree Newton, the learned APP for the Respondent/State, on instructions from ACP Subhada More of ACP Mumbai, fairly submits that the Petitioner (Accused No.7) was not served with the summons in Special Case



No.0102528/2024, and therefore, she agrees with the submissions made by Mr. Vishwajit Sawant, the learned Senior Advocate for the Petitioner, that a Non-Bailable Warrant could not have been issued to the Petitioner without him being served with the summons.

6. Mrs. Rajeshree Newton, learned APP for the Respondent/State, submits that the impugned NBW be quashed, subject to the Petitioner undertaking that he will appear before the Sessions Court on 15th April 2026.

7. Mr. Vishwajit Sawant, learned Senior Advocate for the Petitioner, again, on specific instructions from the Petitioner, reaffirms his statement that the Petitioner (Accused No.7) shall appear in person before the Sessions Court on 15th April 2026. Statement accepted. Petitioner shall abide by the said statement.

8. Useful reference can be made to the decision of the Hon'ble Supreme Court in the case of *Raghuvansh Dewanchand Bhasin v. State of Maharashtra*¹. Paragraph Nos. 10 to 13 are relevant and the same are reproduced herein under :-

10. It needs little emphasis that since the execution of a non-bailable warrant directly involves curtailment of liberty of a person, warrant of arrest cannot be issued mechanically but only after recording satisfaction that in the facts and circumstances of the case it is warranted. The courts have to be extra-cautious and careful while directing issue of non-bailable warrant else a wrongful detention

¹ (2012) 9 SCC 791



would amount to denial of constitutional mandate envisaged in Article 21 of the Constitution of India. At the same time, there is no gainsaying that the welfare of an individual must yield to that of the community. Therefore, in order to maintain the rule of law and to keep the society in functional harmony, it is necessary to strike a balance between an individual's rights, liberties and privileges on the one hand, and the State on the other. Indeed, it is a complex exercise. As Cardozo, J. puts it "on the one side is the social need that crime shall be repressed. On the other, the social need that law shall not be flouted by the insolence of office. There are dangers in any choice."

11. Be that as it may, it is for the court, which is clothed with the discretion to determine whether the presence of an accused can be secured by a bailable or non-bailable warrant to strike the balance between the need of law enforcement on the one hand and the protection of the citizen from highhandedness at the hands of the law-enforcement agencies on the other. The power and jurisdiction of the court to issue appropriate warrant against an accused on his failure to attend the court on the date of hearing of the matter cannot be disputed. Nevertheless, such power has to be exercised judiciously and not arbitrarily, having regard, inter alia, to the nature and seriousness of the offence involved; the past conduct of the accused; his age and the possibility of his absconding. (Also see *State of U.P. v. Poosu* [(1976) 3 SCC 1 : 1976 SCC (Cri) 368] .)

12. In *Inder Mohan Goswami v. State of Uttaranchal* [(2007) 12 SCC 1 : (2008) 1 SCC (Cri) 259] , a Bench of three learned Judges of this Court cautioned that before issuing non-bailable warrants, the courts should strike a balance between societal interests and personal liberty and exercise its discretion cautiously. Enumerating some of the circumstances which the court should bear in mind while issuing non-bailable warrant, it was observed: (SCC pp. 17-18, paras 53-55)

"53. Non-bailable warrant should be issued to bring a person to court when summons or bailable warrants would be unlikely to have the desired result. This could be when:

- it is reasonable to believe that the person will not voluntarily appear in court; or
- the police authorities are unable to find the person to serve him with a summon; or



- *it is considered that the person could harm someone if not placed into custody immediately.*

54. As far as possible, if the court is of the opinion that a summon will suffice in getting the appearance of the accused in the court, the summon or theailable warrants should be preferred. The warrants eitherailable or non-ailable should never be issued without proper scrutiny of facts and complete application of mind, due to the extremely serious consequences and ramifications which ensue on issuance of warrants. The court must very carefully examine whether the criminal complaint or FIR has not been filed with an oblique motive.

55. In complaint cases, at the first instance, the court should direct serving of the summons along with the copy of the complaint. If the accused seem to be avoiding the summons, the court, in the second instance should issueailable warrant. In the third instance, when the court is fully satisfied that the accused is avoiding the court's proceeding intentionally, the process of issuance of the non-ailable warrant should be resorted to. Personal liberty is paramount, therefore, we caution courts at the first and second instance to refrain from issuing non-ailable warrants."

13. We deferentially concur with these directions, and emphasise that since these directions flow from the right to life and personal liberty, enshrined in Articles 21 and 22(1) of our Constitution, they need to be strictly complied with. However, we may hasten to add that these are only broad guidelines and not rigid rules of universal application when facts and behavioural patterns are bound to differ from case to case. Since discretion in this behalf is entrusted with the court, it is not advisable to lay down immutable formulae on the basis whereof discretion could be exercised. As aforesaid, it is for the court concerned to assess the situation and exercise discretion judiciously, dispassionately and without prejudice. Viewed in this perspective, we regret to note that in the present case, having regard to nature of the complaint against the appellant and his stature in the community and the fact that admittedly the appellant was regularly attending the court proceedings, it was not a fit case where non-ailable warrant should have been issued by the Additional Chief Metropolitan Magistrate. In our opinion, the attendance of the appellant could have been secured by issuing summons or at best by aailable warrant. We are, therefore, in complete agreement with the High Court that in the facts and circumstances of the case, issuance of non-ailable warrant was manifestly unjustified.



9. In view of the concessions made by Mrs. Rajeshree Newton, learned APP for the Respondent/State and subject to the statement made by Mr. Vishwajit Sawant, learned Senior Advocate for the Petitioner that the Petitioner shall appear in person before the Sessions Court in Special Case No.0102528/2024, on 15th April 2026, the impugned Non-bailable Warrant dated 23rd March 2026 issued by the Additional Sessions Judge, Court No. 15, City Sessions Court, Mumbai in Special Case No.0102528/2024 is set aside.

10. Writ Petition Stamp No.6344 of 2026 is disposed of.

(ASHWIN D. BHOBE, J.)