

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(M) 197/2026 CM(3363/2026)

SHEERAZ AHMAD RAINA

...Petitioner(s)

Through: Mr. Sheikh Mushtaq, Advocate.

Vs.

RADIANCE PRO PACKING PVT LIMITED

...Respondent(s)

Through:

CORAM:

HON'BLE MR JUSTICE M.A CHOWDHARY, JUDGE

ORDER

05.06.2026

1. Petitioner, invoking the supervisory jurisdiction of this Court, has moved the present petition under Article 227 of the Constitution of India seeking setting aside of the order dated 11.04.2026 to the extent of issuing non-bailable warrants against the petitioner/judgment debtor, passed by the Court of learned Principal District Judge, Pulwama in Application No. IA-1/2025 seeking execution of the judgment and decree dated 19.12.2023 passed by Commercial Court-02, New Delhi, District PHC, New Delhi, as also the order dated 09.05.2026, whereby the learned Executing Court directed issuance of non-bailable warrant (NBW) against the petitioner.

2. Learned counsel for the petitioner submits that while passing the impugned order, the Executing Court made reference to the attachment of the property and observed that the land measuring 09 kanals and 1.25 marlas under Survey No. 479 min, along with the house constructed thereon, stands recorded in the name of mother of the judgment debtor, who is still alive, and that there was no other property in the name of the judgment debtor amenable to attachment. It was further recorded that the learned counsel for the decree holder had submitted that the judgment debtor, however, possesses immovable property on which he runs a school, whereupon the decree holder was directed to submit details of the said property on the next date of hearing. Despite the aforesaid observation, the Court below

simultaneously directed issuance of non-bailable warrant (NBW) against the judgment debtor to be executed through SSP Awantipora.

3. Learned counsel for the petitioner submits that in execution proceedings, the first preference is given to the attachment of the property and therefore, non-bailable warrant ought not to have been issued at the first instance, particularly when proceedings relating to attachment of property were already underway before the Executing Court.

4. It appears that the Court below has acted in the execution in terms of Section 51 of the Code of Civil Procedure. However, it also appears that the Court has been oblivious to the provisions of Order XXI Rule 37 CPC, which vests discretionary power in the Court to afford an opportunity to the judgment debtor to show cause against detention in civil prison, which means that before ordering judgment debtor to be detained in civil prison, a notice is required to be issued to the judgment debtor to explain as to why he should not be sent to civil imprisonment. It appears from the impugned orders that no such exercise has been undertaken by the Court below.

5. Viewed thus, the impugned order, to the extent of ordering arrest of the judgment debtor through issuance of non-bailable warrant (NBW), seem not to have been passed, in accordance with law and is liable to be set aside to that extent.

6. In this view of the matter, the impugned order is required to be interfered with to that extent only. Accordingly, the petition is allowed and the impugned order is quashed to the extent of issuance of non-bailable warrant (NBW) against the petitioner/judgment debtor.

7. Disposed of, at this motion stage.

(M.A CHOWDHARY)
JUDGE

SRINAGAR
05.06.2026
Junaid