

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1584 of 2019**

Ajay Usarey, aged 37 years, S/o Late Shri Narsingh Usare, Government Servant,
Office Rural Mechanical Service, Narayanpur, Thana Narayanpur, Tehsil & District
Narayanpur (C.G.) Pin No. 494661

And

Permanent R/o Champanagar, Manegaon, Ranchi, Jabalpur, Tehsil & Distt.
Jabalpur, Madhya Pradesh

And

Village – Bharritola, (Maanpur- Mohla), Thana – Maanpur Mohla, Tahsil Maanpur
Mohla, District Rajnandgaon (C.G.)

----Petitioner

Versus

Kuleshwar Sahu, aged 32 years, S/o Late Shri Kriparam Sahu, R/o Police Line
Quarter, Raipur, Thana City Kotwali, Raipur, Tehsil & Distt. Raipur (C.G.)

----Respondent

For Petitioner	: Mr. J.K. Gupta, Advocate.
For Respondent	: Mr. Ajay Ayachi, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/11/2019

(1) Learned counsel appearing for the petitioner would submit that the petitioner, who is accused, is facing trial for commission of offence under Section 138 of the Negotiable Instruments Act, in which the trial Magistrate without serving summons or bailable warrant or warrant of arrest, straightway issued the permanent warrant of arrest against him, which is bad and unsustainable in law and is liable to be set aside.

(2) Per contra, counsel for the respondent while supporting the impugned would submit that the impugned order issuing permanent warrant of arrest against the petitioner is strictly in accordance with law, which does not call for any interference.

(3) A careful perusal of the order sheets would show that petitioner was never served with the bailable warrant or non bailable warrant of arrest and straightway permanent warrant of arrest was issued against him. Firstly, the trial Court ought to have served bailable warrant against the petitioner and, thereafter, could have proceeded further against the petitioner, that was not done and straightway permanent warrant of arrest was issued, which is unsustainable and bad in law.

(4) Accordingly, the impugned order is set aside. The petitioner will appear before the trial Magistrate on 2.12.2019 without fail. He is at liberty to file application for grant of bail in accordance with law.

(5) The Cr.M.P. is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

