

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL WRIT PETITION NO. 819 OF 2019**

Ashfaque Ahmed S/o Abdul Quadar,  
..VS..

Police Station Officer, PS New Friends Colony, Delhi and Ors.,

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

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Shri M. N. Ali, Advocate for the petitioner.  
Shri A. S. Fulzele, Addl.P.P. for the respondent No.3.

**CORAM : SUNIL B. SHUKRE AND**  
**AVINASH G. GHAROTE, JJ.**

**DATED : 18<sup>th</sup> January, 2021**

Heard Shri M. N. Ali, learned counsel for the  
petitioner and Shri A. S. Fulzele, learned Addl.P.P. for  
the respondent No.3.

2. Nobody is present for respondent Nos.1  
and 2. But, there is a reply filed by respondent No.1.

3. The petition seeks direction to respondent  
Nos.1 to 3 to find out the accused and execute the non-  
bailable warrant issued by the Trial Court. Name of the  
Trial Court is not mentioned in the prayer clause.

4. According to the learned counsel for the  
petitioner, respondents are not complying with the order  
passed by the Trial Court. The order is of issuance of  
non-bailable warrant against the accused persons and the

grievance is that such non-bailable warrant is not being executed on the accused persons who are stated to be residing somewhere in Delhi. Learned counsel for the petitioner submits that this order has not been complied with by the respondents.

5. Learned Addl.P.P. invites our attention to the statement made in paragraph No.5, of reply filed by respondent No.1 and submits that this statement should be sufficient to enable the Court to reach the conclusion that there is no negligence on the part of the respondents.

6. On going through the reply of respondent No.1, we find that there is no such thing as non-compliance with the order passed by the Trial Court by respondent No.3 in the present case. The compliance regarding execution of a non-bailable warrant could be either with the arrest of the accused against whom the warrant is issued or with the submission of the report that warrant cannot be executed for xyz reasons. In the present case, the reply of the respondent No.1 shows that he had already submitted a report to the Court of Judicial Magistrate, First Class to the effect that the accused never resided at the address given in the warrant and in order to substantiate this conclusion, statement of the landlady was also recorded by him. The documents filed on record also show that even Akola Police had been to New Delhi for execution of the

warrant and they learnt the same thing that respondent No.1 i.e. the accused was not residing at the address given by the petitioner. These reports of respondent would show that this is not a case of non compliance with the order of the Court rather this is a case where compliance is not possible because of absence of correct address of the accused persons. Therefore, there is no merit in the petition.

The writ petition stands dismissed.

**JUDGE**

**JUDGE**

*Kirtak*