

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
WRIT PETITION NO. 5771 OF 2025

Vishwa Bandhu Jaiswal

..Petitioner

**Versus**

State of Maharashtra & Anr

...Respondents

Mr. Ashok M Saraogi, with Siddhant Jaiswal, Aahana Shrivastava and  
Priti Rao, for the Petitioner.

Smt. R.S. Tendulkar, APP, for Respondent No.1-State.

Mr. Swatesh Tripathi, for the Respondent No.2.

CORAM: N. J. JAMADAR, J.

DATE : 26<sup>th</sup> NOVEMBER 2025

**P.C.:**

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 15<sup>th</sup> October 2025 passed by the learned Judicial Magistrate, 22<sup>nd</sup> Court, Andheri, Mumbai, whereby proclamation was ordered to be issued against the Petitioner.
3. On 13<sup>th</sup> November 2025, when the Petition was listed before this Court, the Court was persuaded to grant interim relief observing, *inter alia*, as under:

“4. *Prima facie* it appears that non bailable warrant was issued against the Petitioner on 15<sup>th</sup> September 2025. In the impugned order, the learned Magistrate has observed that warrants were repeatedly

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issued against the Petitioner. Thus, the legality and propriety of the issuance of the proclamation, without indicating a specific date on which the proclamation would be made returnable and, simultaneously, issuing a warrant of attachment of property under Section 83 of the Code, requires to be examined.”

4. Mr. Saraogi, the learned Counsel for the Petitioner, invites attention of the Court to an order dated 21<sup>st</sup> November 2025 passed by the Division Bench in Criminal Writ Petition No. 5307 of 2025 which has been filed to quash the proceedings with the consent of the Complainant-Prosecutrix.

5. Mr. Tripathi, the learned Counsel for the Respondent No.2, submits that the Petitioner and the Respondent No.2 have amicably resolved the dispute, and seeks leave to tender Consent Affidavit on behalf of the Respondent No.2.

Leave granted.

Consent Affidavit is taken on record.

6. De hors the consent of the Respondent No.2, it appears that the impugned order of issue of proclamation straightway cannot be sustained as the roznama of the proceeding indicates that NBW was ordered to be issued against the Petitioner on 15<sup>th</sup> September 2025 only. The learned Magistrate has also not indicated the returnable date of the proclamation, and simultaneously issued order of attachment under Section 83 of the Code of Criminal Procedure, 1973 (“the Code”).

7. The Court while taking coercive steps against the accused is required to satisfy itself about the necessity of the particular measure; warrant or proclamation. The issue of proclamation has serious implications. It cannot be issued as a matter of course.

8. In the case at hand, it appears that, the learned Magistrate has not satisfied himself about the necessity of the issue of proclamation and simultaneous order of attachment of the property of the Petitioner.

9. In the aforesaid view of the matter, the impugned order stands quashed and set aside.

10. The Petitioner shall appear before the jurisdictional Magistrate on the next scheduled date.

11. Petition disposed.

**[N. J. JAMADAR, J.]**