



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (ABA) NO. 896 OF 2025

(Mahesh Haribhau Gaidhane ..vs.. State of Maharashtra, through PSO, PS Kurkheda, Gadchiroli)

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

Court's or Judge's orders

Mr. R.M. Daga with Mr. A.S. Band, Counsel for the applicant,
Mr. A.M. Kadukar, Addl.P.P. for the non-applicant/State.

CORAM : NIVEDITA P. MEHTA, J.

DATE : 25-11-2025

Issue notice to the non-applicant.

2. Mr. A.M. Kadukar, learned Additional Public Prosecutor waives service of notice on behalf of the non-applicant.

3. The applicant has filed the present application apprehending his arrest pursuant to the non-bailable warrant issued against him in Regular Criminal Case No. 20/2018 pending before the Judicial Magistrate First Class, Kurkheda, for offences punishable under Sections 406, 420, and 304 of the Indian Penal Code, arising out of Crime No. 138/2017 registered at Police Station Kurkheda, District Gadchiroli, on 08-06-2017. The trial in the said case is pending. Admittedly, the applicant had been released on bail. However, on account of his repeated non-appearance, the Judicial Magistrate First Class, Kurkheda issued a non-bailable warrant against him.

4. Learned counsel for the applicant submits that the non-appearance was neither intentional nor deliberate, but occurred

due to erroneous communication by his counsel. Per contra, learned Additional Public Prosecutor submits that this is not the first instance where a non-bailable warrant has been issued against the applicant; on an earlier occasion, a similar warrant had been issued. It is further submitted that the Judicial Magistrate First Class, Kurkheda has also issued notice to the surety and a proclamation, and therefore prays that the present anticipatory bail application be rejected, with costs to be imposed on the applicant for misuse of the Court's process.

5. Upon considering the rival submissions, it is evident from Section 70(2) of the Criminal Procedure Code, read with the *pari materia* provision under Section 72(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, that a warrant issued by any Court may be cancelled only by the Court which issued it, or until it is executed. An application for anticipatory bail cannot be invoked to circumvent a judicially issued warrant. The proper remedy available to the applicant is to approach the Judicial Magistrate First Class, Kurkheda, who issued the non-bailable warrant.

6. However, in view of the circumstances, limited protection from arrest is granted to the applicant solely for the purpose of enabling him to appear before the Judicial Magistrate First Class, Kurkheda, and seek cancellation of the non-bailable warrant. The applicant is directed to personally appear before the said Court on 27-11-2025 and take appropriate steps in accordance with law.

In these circumstances, the application is partly allowed, subject to the applicant depositing costs of ₹10,000/- before the Judicial Magistrate First Class, Kurkheda.

(NIVEDITA P. MEHTA, J.)

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