IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CR. ANTICIPATORY BAIL APPLN. NO. 498 OF 2026

Suraj Sanjay Jadhav ……Applicant

Versus

The State of Maharashtra & Anr. ……Respondents

Mr. Pranav Borgave for Applicant.
Mr. S.S. Chaudhari, A.P.P. for the Respondents-State.

Coram : ASHWIN D. BHOBE, J.

Date : 12th October 2026.

PER COURT :

1. Heard, Mr. Pranav Borgave, learned Advocate for the Applicant and Mr. Chaudhari, learned A.P.P. for the Respondents-State.

2. By the present Application, the Applicant seeks pre-arrest bail in connection with Crime No. 07 of 2026, dated 7th January 2026, registered at Karad Taluka Police Station, District Satara, for the offence punishable under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. Mr. Chaudhari, learned A.P.P. for the Respondents-State, submits that a standing warrant is pending against the Applicant in connection with the

aforesaid crime, issued by the Judicial Magistrate First Class, Karad and therefore he objects to entertaining this Application.

4. In view of the aforesaid submission made by Mr. Chaudhari, learned A.P.P., Mr. Pranav Borgave, learned Advocate for the Applicant, states that upon the Applicant learning about the issuance of the standing warrant, he approached the Sessions Court for pre-arrest bail by filing Criminal Bail Application No. 221 of 2026.

5. Mr. Pranav Borgave, learned Advocate for the Applicant, on instructions, states that the Applicant was neither served with any summons nor with any bailable or non-bailable warrant prior to issuance of the standing warrant. According to his instructions, the Judicial Magistrate First Class, Karad, directly issued a standing warrant against the Applicant.

6. Mr. Chaudhari, learned A.P.P. for the Respondents-State, submits that, in view of the aforesaid statements made by Mr Pranav Borgave, learned Advocate for the Applicant, the Applicant may be directed to approach the Judicial Magistrate First Class, Karad, for appropriate relief.

7. Mr. Pranav Borgave, learned Advocate for the Applicant, reiterating the aforesaid statements, submits that he will immediately file an appropriate application before the Judicial Magistrate First Class, Karad seeking cancellation of the standing warrant. He therefore requests that the Applicant

be granted protection for ten days in the meantime.

8. Mr. Chaudhari, learned A.P.P. for the Respondents-State, submits that the request for protection may be considered for a period of ten days. However, he submits that, if the statements made today by Mr. Pranav Borgave, learned Advocate for the Applicant, as recorded in paragraph 5 hereinabove, are found to be false, the Judicial Magistrate First Class, Karad, should be at liberty to take appropriate action against the Applicant in accordance with law.

9. This Court, in the case of ***Raghuvansh Dewanchand Bhasin v. State of Maharashtra***[1]***,*** in para Nos.10 to 13, has held as follows:

> *"10. It needs little emphasis that since the execution of a non-bailable warrant directly involves curtailment of liberty of a person, warrant of arrest cannot be issued mechanically but only after recording satisfaction that in the facts and circumstances of the case it is warranted. The courts have to be extra-cautious and careful while directing issue of non-bailable warrant else a wrongful detention would amount to denial of constitutional mandate envisaged in Article 21 of the Constitution of India. At the same time, there is no gainsaying that the welfare of an individual must yield to that of the community. Therefore, in order to maintain the rule of law and to keep the society in functional harmony, it is necessary to strike a balance between an individual's rights, liberties and privileges on the one hand, and the State on the other. Indeed, it is a complex exercise. As Cardozo, J. puts it "on the one side is the social need that crime shall be repressed. On the other, the social need that law shall not be flouted by the insolence of office. There are dangers in any choice." [Ed.: As observed by Cardozo, J. in People v. Defore, 242 NY 13, at 24 : 150 NE 585, at 589 (1926)]*
>
> *11. Be that as it may, it is for the court, which is clothed with the*

1 (2012) 9 SCC 791.

discretion to determine whether the presence of an accused can be secured by a bailable or non-bailable warrant to strike the balance between the need of law enforcement on the one hand and the protection of the citizen from highhandedness at the hands of the law-enforcement agencies on the other. The power and jurisdiction of the court to issue appropriate warrant against an accused on his failure to attend the court on the date of hearing of the matter cannot be disputed. Nevertheless, such power has to be exercised judiciously and not arbitrarily, having regard, inter alia, to the nature and seriousness of the offence involved; the past conduct of the accused; his age and the possibility of his absconding. (Also see State of U.P. v. Poosu [(1976) 3 SCC 1 : 1976 SCC (Cri) 368] .)

12. *In Inder Mohan Goswami v. State of Uttaranchal [(2007) 12 SCC 1 : (2008) 1 SCC (Cri) 259] , a Bench of three learned Judges of this Court cautioned that before issuing non-bailable warrants, the courts should strike a balance between societal interests and personal liberty and exercise its discretion cautiously. Enumerating some of the circumstances which the court should bear in mind while issuing non-bailable warrant, it was observed: (SCC pp. 17-18, paras 53-55)*

> *"53. Non-bailable warrant should be issued to bring a person to court when summons or bailable warrants would be unlikely to have the desired result. This could be when:*
>
> * *it is reasonable to believe that the person will not voluntarily appear in court; or*
>
> * *the police authorities are unable to find the person to serve him with a summon; or*
>
> * *it is considered that the person could harm someone if not placed into custody immediately.*
>
> *54. As far as possible, if the court is of the opinion that a summon will suffice in getting the appearance of the accused in the court, the summon or the bailable warrants should be preferred. The warrants either bailable or non-bailable should never be issued without proper scrutiny of facts and complete application of mind, due to the extremely serious consequences and ramifications which ensue on issuance of warrants. The court must very carefully examine whether the criminal complaint or FIR has not been filed with an oblique motive.*

> *55. In complaint cases, at the first instance, the court should direct serving of the summons along with the copy of the complaint. If the accused seem to be avoiding the summons, the court, in the second instance should issue bailable warrant. In the third instance, when the court is fully satisfied that the accused is avoiding the court's proceeding intentionally, the process of issuance of the non-bailable warrant should be resorted to. Personal liberty is paramount, therefore, we caution courts at the first and second instance to refrain from issuing non-bailable warrants."*
>
> *13. We deferentially concur with these directions, and emphasise that since these directions flow from the right to life and personal liberty, enshrined in Articles 21 and 22(1) of our Constitution, they need to be strictly complied with. However, we may hasten to add that these are only broad guidelines and not rigid rules of universal application when facts and behavioural patterns are bound to differ from case to case. Since discretion in this behalf is entrusted with the court, it is not advisable to lay down immutable formulae on the basis whereof discretion could be exercised. As aforesaid, it is for the court concerned to assess the situation and exercise discretion judiciously, dispassionately and without prejudice. Viewed in this perspective, we regret to note that in the present case, having regard to nature of the complaint against the appellant and his stature in the community and the fact that admittedly the appellant was regularly attending the court proceedings, it was not a fit case where non-bailable warrant should have been issued by the Additional Chief Metropolitan Magistrate. In our opinion, the attendance of the appellant could have been secured by issuing summons or at best by a bailable warrant. We are, therefore, in complete agreement with the High Court that in the facts and circumstances of the case, issuance of non-bailable warrant was manifestly unjustified."*

10. Considering the statement made by Mr. Pranav Borgave, learned Advocate for the Applicant, that the standing warrant was issued without prior service of summons or the issuance of a bailable or non-bailable warrant, the standing warrant dated 18th March 2026, issued by the Judicial

Magistrate First Class, Karad, is kept in abeyance for a period of ten days only from today, to enable the Applicant to approach the Judicial Magistrate First Class, Karad and seek appropriate relief.

11. If an application is filed by the Applicant before the Judicial Magistrate First Class, Karad, the same shall be considered on its own merits and in accordance with law.

12. At the request of Mr. Chaudhari, learned A.P.P., it is clarified that, if the statements made by Mr. Pranav Borgave, learned Advocate for the Applicant, as recorded in paragraph 5 hereinabove are found to be incorrect, the Magistrate shall be at liberty to take appropriate action and pass appropriate orders in accordance with law.

13. The Anticipatory Bail Application No. 498 of 2026 is disposed of in the above terms.

[ASHWIN D. BHOBE, J.]

OMKAR SHIVAHAR KUMBHAKARN

Digitally signed by OMKAR SHIVAHAR KUMBHAKARN
Date: 2026.10.13 19:46:17 +0530