



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

**CRIMINAL APPLICATION (APL) NO. 496 OF 2026**

( Pankaj Rajkumar Jain and others Vs The State of Maharashtra)

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

Court's or Judge's Order

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Mr. S.V. Manohar, Senior Counsel a/b Mr. A.S. Manohar, counsel for applicants.  
Mr. A.M. Joshi, APP for non-applicant/State.

**CORAM : URMILA JOSHI-PHALKE, J**

**DATE : 11/03/2026**

1. By this application, the applicants are challenging the order of issuance of non-bailable warrant against them. They are being prosecuted on the basis of a complaint lodged by the Drugs Inspector, Food and Drugs Administration.

2. Heard learned Senior Counsel, who invited my attention to the order passed by the Judicial Magistrate First Class, Gadchiroli, and submitted that even though summons was not served, a non-bailable warrant was issued by the trial Court. He is ready to waive notice for the present applicants, who are the original accused in Criminal Case No. 87/2023.

3. On perusal of the orders passed below Exhibit-1 in the said criminal complaint, it reveals that on 03/03/2023 the order was passed by the Court to issue summons to the accused under Drugs and Magic Remedies Act. Thereafter, the subsequent order dated 21/02/2024 reveals that summons were issued to all the accused persons; however, they remained unserved, and it was recorded that the accused were

deliberately avoiding service. Hence, a bailable warrant up to Rs. 5,000/- was issued.

4. Thereafter, on 12/12/2024, a non-bailable warrant was issued. Admittedly, the record nowhere shows that the trial Court had any material before it to show that the applicants were deliberately avoiding the service of the summons. Thus, without assigning any reason directly the non-bailable warrant is issued.

5. The same is contrary to the guidelines issued by the Hon'ble Apex Court in the case of *Inder Mohan Goswami & Another vs State Of Uttarakhand reported in (2007) 12 SCC 1*. In the said judgment, the Hon'ble Apex Court specifically held that 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 appears to be avoiding the summons, the Court, in the second instance, should issue a 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.

6. The order passed by the Magistrate nowhere shows that, on his satisfaction, he has issued the non-bailable warrant. In view of that, I proceed to pass the following order:

### **ORDER**

- a] The order passed by the learned Judicial Magistrate First Class, Gadchiroli in Summary Criminal Case No. 87 of 2023 dated 12/12/2024 is hereby quashed and set aside.

- b] The applicants shall take appropriate steps within four weeks to appear before the Judicial Magistrate First Class, Gadchiroli for further proceedings. As the notice is already waived by the applicants.
7. The criminal application is **disposed of**.

(URMILA JOSHI-PHALKE, J.)