



2026:DHC:8233



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 22.09.2026# **CNR No. DLHC010414452026**+ **CRL.M.C. 6516/2026**
DHEERAJ TYAGI

.....Petitioner

Through: Mr. Kiran Kumar Patra, Mr. Manoj
Kumar and Mr. Lachit Khurana,
Adv.

versus

STATE OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Kamlesh Kumar, Ms. Tripta
Kannth, Adv. for R-1 and 2.
Ms. Priyanka Dalal, APP for State.
SI Kuldeep Bhat, PS EOW**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)****Crl.M.A.27215/2026 (Exemption from filing certified copies of annexures)**

1. The application is disposed of with a direction to the petitioner to file certified copies of annexures within a period of two weeks from today.

CRL.M.C. 6516/2026

2. By way of the present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), the petitioner assails an order dated 27.07.2026 ("Impugned Order"), passed by the learned Principal District & Sessions Judge (Central), Tis Hazari Courts, Delhi in FIR No. 04/2022, registered at P.S. Economic Offices Wing (Delhi) under Sections 406/420/506/120-B of the Indian Penal Code, 1860.



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3. The Impugned Order dated 27.07.2026 reads as under:

“There is an application seeking cancellation of NBWs moved on behalf of accused Dheeraj Tyagi wherein it is stated that *accused could not appear before the court due to heavy traffic jam. The application has no merit or substance as clearly the accused has taken lame excuses. It is otherwise also clear from the record that accused is avoiding appearance before the court. Application is hence dismissed.*

The complainants have moved an application on 09.06.2025 seeking cancellation of bail on the ground that accused Dheeraj Tyagi got anticipatory bail from the court on the basis of mediation settlement between the parties whereby he was required to pay a sum of Rs.80 Lakhs and cheque amounting to Rs.20 Lakhs was issued but same was dishonoured. Vide order dated 25.09.2024, accused undertook to settle the dispute within three months vide statement recorded before the court. It is further evident from the record that applicant/ accused appeared through video conferencing on 08.06.2026 and submitted that he would execute the registered sale deed with respect to the area admeasuring 200 square yards in Khasra No.34/2 (4-16), 34/3 (2-04) and 34/9 (4-08) situated at village Jindpur, Delhi. The submissions of the accused were accepted on behalf of complainant.

Again there has been no compliance to the submissions made by accused himself before the court on 08.06.2026.

Despite the order of personal appearance, accused has not been appearing before this court.

Taking over all view of the facts and circumstances of the case, I find that accused *Dheeraj Tyagi is abusing the process of law, particularly he has failed to abide by his undertaking and settlement recorded in the present proceedings. Accused has also not been complying with the bail conditions by disobeying the order of the court about personal appearance. The conduct of accused Dheeraj Tyagi makes it clear that to procure bail, he entered into settlement with no intention to honour the same and also subsequently violated the undertaking given to the court on 08.06.2026 In the above circumstances, application of the*



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complainants is allowed. The bail granted to the accused is cancelled.

Since bail of accused Dheeraj Tyagi is cancelled and NBWs 1s in force against him, IO is directed to execute the NBWs and arrest the accused and be produced before the concerned court.

Copy of this order be sent to the concerned court as well as IO/SHO concerned.

Copy of order be given dasti to all the concerned parties.”

4. Pertinently, the Impugned Order came to be passed on an application moved by the complainants (respondent nos. 2 and 3), whereby the bail granted to the petitioner in FIR No. 04/2022, registered at P.S. Economic Offences Wing, Delhi, was cancelled. By the said order, the Investigating Officer (IO) was also directed to execute the non-bailable warrants issued *vide* order dated 21.07.2026, arrest the petitioner, and produce him before the concerned Court.

5. The aforesaid order dated 21.07.2026 reads as under:



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**21.07.2026**

Present: Sh. Balbir Singh, L.d. Addl. PP for State
Sh. Kamlesh Kumar, L.d. Counsel for complainant.
Sh. Hari Om Mishra, L.d. Counsel for accused along
with Sh. Shiv Kumar Tyagi, father of the accused.

Despite specific directions to the accused Dheeraj Tyagi to appear in person, he has again failed to appear before the court.

Neither any application for exemption from personal appearance is moved on behalf of accused nor any reason for his non-appearance has been given. The very contention of the bail has been violated by the accused.

Therefore, issue Non-bailable Warrants against the accused Dheeraj Tyagi through IO concerned who may arrest the accused and produce him before this court. Also issue notice under Section 446 Cr.P.C to the surety of accused.

IO be also summoned for the next date of hearing.

Be listed on 27.07.2026.

ANJU
BAJAJ
CHANDNA

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ANJU BAJAJ CHANDNA
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(Anju Bajaj Chandna)
Principal District & Sessions Judge (Central)
Delhi/21.07.2026

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6. The relevant facts in the present matter are that the FIR was registered on 10.01.2022, pursuant to an order dated 14.12.2021 passed by the learned Trial Court under Section 156(3) of the Code of Criminal Procedure, 1973 ("CrPC") on allegations that the petitioner and the co-accused who are related, had cheated the complainant in criminal conspiracy with each other, in the name of selling their plot to the complainant.

7. Subsequently, while the investigation was pending, the matter was referred to the Mediation Centre, Tis Hazari Court, and thereafter, a mediation settlement agreement dated 26.10.2023 was arrived at, under which, the petitioner was to pay a sum of Rs. 80,00,000/- to the complainants/ respondent nos. 2 and 3.

8. Based on such settlement, the petitioner was granted anticipatory bail



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by the learned ASJ/FTC-02 (Central), Tis Hazari Courts, Delhi on 08.11.2023. The said order reads as under:

“Ld. Counsel for accused/applicant submits that no bail application is pending before the Hon'ble High Court of Delhi or the Hon'ble Supreme Court of India.

The accused/applicant is stated to have committed offences punishable u/s 420/406/120B IPC.

Ld. Counsel for the accused/applicant submits that the matter has been settled between the parties in mediation cell. He has placed the mediation settlement agreement dated 26.10.2023 on record. He submits that accused/applicant is ready to join the investigation and hand over all the required documents to the IO. He submits that co-accused Sunil has already been granted regular bail. He further submits that the parties will file quashing petition before the Hon'ble High Court Of Delhi very soon. He further submits that accused/applicant is ready to abide all the conditions if he is granted bail. He further submits that no fruitful purpose will be served by sending the accused/applicant in J.C and hence he should be granted anticipatory bail.

Complainant namely Vinod Verma and Ram Ratan Sharma submits that they have settled the matter with the accused/applicant and he should be granted bail.

Ld. Counsel for complainant also submits that since the matter has been settled between the parties, bail should be granted to the accused/applicant.

Per contra, Ld. Addl PP for the State submits that investigation in the present case is still pending. He further submits that the custodial interrogation of accused/applicant is required and hence he should not be granted bail.

I have heard the submissions and perused the record.

The alleged offences committed by the accused/applicant are punishable upto 07 years only. The parties have settled the matter before Delhi Mediation Centre. The complainants/victims have also submitted that accused should be granted bail. Accused/applicant is ready to join the investigation and hand over the required documents to the IO.

In view of the facts and circumstances of the case,



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settlement between the parties and submissions made by the complainants/victims, this Court is of considered opinion that this is the fit case for grant of anticipatory bail.

Accordingly, the present application is hereby allowed. IO/SHO is directed to release the accused/applicant on bail in case of arrest on filing personal bail bond in sum of Rs.50,000/- with one surety in the like amount on the following conditions:-

1. The applicant/accused shall not leave NCR till the conclusion of trial;
2. The applicant/accused shall keep his mobile phone on at all times;
3. The applicant/accused shall make no contact with the prosecution witnesses;
4. The applicant/accused shall not tamper with the evidence in any manner and shall not try to influence the witnesses directly or indirectly;
5. The applicant/accused shall commit no offence whatsoever and in the event of his being involved in any other case and lodging of FIR of DD entry against him, the State shall bring the same to the notice of the Court forthwith;
6. The applicant/accused is directed not to threat the complainant/witnesses in any manner and shall not come in the vicinity of the complainant/witnesses.
7. The applicant/accused shall intimate this court as and when he changes his residential address.
8. Accused/applicant is directed to join the investigation as and when required by the IO through a written notice.

The State is at liberty to file the cancellation of the bail of the accused/applicant, if he violates the conditions of the present bail order.

**The bail application stands disposed off accordingly.
Copy of this order be given Dasti to all concerned.**

**(Virender Kumar Kharta)
ASJ/FTC-02(CENTRAL)**

TIS HAZARI COURTS: DELHI: 08.11.2023”

9. Thereafter, a cheque for Rs. 20,00,000/- issued by the petitioner towards the aforesaid settlement, was dishonoured.



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10. It is noticed that an application for cancellation of the petitioner's bail was filed by the complainant at that stage itself, however, the same came to be withdrawn *vide* order dated 25.09.2024 upon the assurance of the petitioner to settle the matter.

11. Learned counsel for the respondents submits that, subsequently, the chargesheet was filed on 12.12.2024 and that cognizance was taken *vide* order dated 23.12.2024 passed by the learned CJM (Central), Tis Hazari Courts, New Delhi.

12. Thereafter, *vide* order dated 01.02.2025, the petitioner (as also a co-accused) were admitted to bail. The order dated 01.02.2025 reads as under:

“Fresh vakalatnama filed on behalf of accused Dheeraj and Arun Tyagi. Taken on record.

It is submitted by the counsel that both the accused Dheeraj Tyagi and Arun Tyagi were released on anticipatory bail during the course of investigation and they have always cooperated with the investigation and have appeared before the court as directed. Therefore, both the counsels are praying for regular bail for both the accused as no purpose will be served by sending them behind the bars as they are ready to appear before the court as and when directed.

On the other hand, State has opposed the request citing the gravity of the matter.

*Considering the submissions and the mandate of the **Satender Kumar Ant/** case and the fact that the accused persons have appeared before the court upon receiving the summons, I do not find any ground to send the accused persons behind the bars. Accordingly, both the accused persons are admitted to bail in the sum of Rs.50000/-with one surety of like amount subject to the condition that the accused persons will appear before the court as and when directed and shall attend each and every hearing and shall not influence the witnesses in any manner. Bail bonds furnished and accepted on behalf of accused Dheeraj Tyagi.*

Further, the accused Arun Tyagi has furnished personal bonds due to non availability of surety with the undertaking to furnish surety bonds on the NDOH. The personal bonds are accepted till the NDOH.

Let production warrant of accused Sunil Tyagi be issued returnable for NDOH.



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Let the copy of the charge-sheet be supplied to the accused Dheeraj Tyagi and Arun Tyagi.

Be put up for furnishing of surety bonds and further proceedings on 13.02.2025.”

13. Thereafter, on 09.06.2025, the complainants again moved an application seeking cancellation of bail, which had been granted on 08.11.2023.

14. During the course of hearing, it is pointed out that, on 08.06.2026, during the pendency of the said application, the petitioner appeared through video conferencing before the concerned Court and undertook to, *inter alia*, execute a registered sale deed with respect to the area admeasuring 200 Sq. Yards of land in Village, Jindpur, Delhi in favour of the complainant.

15. However, the aforesaid undertaking too, was not honoured by the petitioner.

16. The order dated 08.06.2026 reads as under:

“08.06.2026

Present: Ms. Sujata, Ld. Addl. PP for the State.

Applicant /accused Dheerak Tyagi appeared through VC. Sh. Kamlesh Kumar and Ms. Tripta Kanta, Ld. Counsel for complainant. Sh. Anil Sehgal and Sh. Lalit Khurana, Ld. Counsel for applicant / accused Dheeraj Tyagi.

Sh.Shiv Kumar Tyagi, father of applicant/ accused Dheeraj Tyagi.

SI Kuldeep Bhati PS EOW is present.

Applicant/ accused appeared through VC, and submits that he will execute the registered sale deed with respect to the area admeasuring 200 Sq.Yd. in Khasra No. 34/2(4-16), 34/3 (2-04) and 34/9 (4-08) situated at village Jindpur, Delhi on or before 15.06.2026 and allow the complainant to make boundary wall. Also for the rest of the area admeasuring 300 Sq.Yd. in the aforesaid khasra, he will execute the registered documents on or before 16.07.2026, as he submits that he has already entered into agreement to sell with respect



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to the area admeasuring 300 sq.yd and the registered documents with respect to the said area will be executed in his favour within 30 days. Ld. Counsel for complainant as well as complainant Vinod agreed to their suggestion.

Put up on 16.07.2026 for further proceedings as well as for arguments on the cancellation of bail.

*(Priyanka Bhagat)
ASJ(SC-RC), Central
Tis Hazari Courts, Delhi
08.06.2026”*

17. Thereafter, as noticed *vide* order dated 21.07.2026, the petitioner failed to appear in person before the Court, despite there being specific directions for his appearance. Consequently, *vide* the said order, non bailable warrants were issued against the petitioner.

18. Subsequently, *vide* the Impugned Order, the learned Principal District & Sessions Judge (Central), Tis Hazari Courts, rejected the petitioner's explanation of not being able to appear before the Court due to a heavy traffic jam, and termed the same to be a “lame excuse”. The Court further observed that the petitioner was avoiding appearance before the Court and also rendered the finding that the petitioner had entered into settlement with the complainants with no intention to honour it, but only to secure bail.

19. The Court further noticed that the petitioner had also violated the undertaking given to the Court on 08.06.2026. Consequently, *vide* the Impugned Order, the bail granted to the petitioner was cancelled.

20. The primary submission of learned counsel for the petitioner is that the petitioner was admitted to bail (*vide* order dated 01.02.2025 passed by learned CJM (Central), Tis Hazari Courts, Delhi), after filing of the chargesheet in the matter.



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21. It is further submitted that the bail in question was granted by the learned Magistrate and could, therefore, only be cancelled by the learned Magistrate under Section 437(5) Cr.P.C. [Section 480(5) BNSS]. It is accordingly contended that the learned Principal District & Sessions Judge has no jurisdiction to entertain an application under Section 439(2) Cr.P.C. [Section 483(3) BNSS].

22. The said submission is misconceived.

23. Section 437(5) Cr.P.C empowers a Court which has released a person on bail under sub-section (1) or sub-section (2) of that Section to direct his re-arrest. The said provision, therefore, confers upon the Court which has granted bail, the power to direct re-arrest of the accused.

24. Section 439(2) Cr.P.C., on the other hand, confers a special power upon the High Court and the Court of Session to direct that “*any person who has been released on bail under this Chapter be arrested and commit him to custody*”. The expression “any person” here, is not confined to a person released on bail by the High Court or the Court of Session; it extends to every person who has been released on bail under Chapter XXXIII, irrespective of the Court which granted such bail. The corresponding provision under the BNSS, namely Section 483(3), is in pari materia with Section 439(2) Cr.P.C.

25. The said position has been reaffirmed by a Division Bench of the Gujarat High Court in ***Rameshbhai Lallubhai Luni v. Devraj Bhalabhai***, 1987 SCC OnLine Guj 76, whereby it has been observed as under:

“8. It is manifest on a plain reading of Section 439(2) of the Criminal Procedure Code that the jurisdiction to direct that any person, who has been released on bail under Chapter XXXIII of the Code, be arrested and committed to the custody, is vested both in the Court of Session and the



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High Court, even though the bail order may have been made by a magistrate. Even a bare reading of the provision leaves no doubt as to the fact that the jurisdiction of the Court of Session and the High Court is a concurrent jurisdiction and there is nothing in the provision itself even remotely suggesting that the High Court cannot entertain an application for cancellation of bail under Section 439(2) of the Criminal Procedure Code directly, that is, without an approach having been first made to the Court of Session in that behalf. It is also not brought to our notice that a practice has grown in our High Court whereby an application for cancellation of bail is not directly entertained by the High Court and if somebody makes such an application directly to the High Court the is asked to approach the Sessions Court first or that such an application directly made to the High Court is transmitted down to the concerned Sessions Judge for hearing and disposal. In fact, we were told at the Bar that all along such applications for cancellation of bail are directly entertained by the High Court even though the bail order might have been made by a judicial magistrate.”

26. In **Gurcharan Singh v. State (Delhi Admn.)**, (1978) 1 SCC 118, the Supreme Court has observed as under:

“16. Section 439 of the new Code confers special powers on High Court or Court of Session regarding bail. This was also the position under Section 498 CrPC of the old Code. That is to say, even if a Magistrate refuses to grant bail to an accused person, the High Court or the Court of Session may order for grant of bail in appropriate cases. Similarly under Section 439(2) of the new Code, the High Court or the Court of Session may direct any person who has been released on bail to be arrested and committed to custody. In the old Code, Section 498(2) was worded in somewhat different language when it said that a High Court or Court of Session may cause any person who has been admitted to bail under sub-section (1) to be arrested and may commit him to custody. In other words, under Section 498(2) of the old Code, a person who had been admitted to bail by the High Court could be committed to custody only by the High Court. Similarly, if a person was admitted to bail by a Court of Session, it was only the Court of Session that could commit him to custody. This restriction upon the power of entertainment of an application for committing a person, already admitted to bail, to custody, is lifted in the new Code under Section 439(2). Under Section 439(2) of the new Code a High Court may commit a person released on bail under Chapter XXXIII by any Court including the Court of Session to custody, if it thinks appropriate to do so. It must, however, be made clear that a Court of Session cannot cancel a bail which has already been granted by the High Court unless new circumstances arise during the progress of the



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trial after an accused person has been admitted to bail by the High Court. If, however, a Court of Session had admitted an accused person to bail, the State has two options. It may move the Sessions Judge if certain new circumstances have arisen which were not earlier known to the State and necessarily, therefore, to that Court. The State may as well approach the High Court being the superior Court under Section 439(2) to commit the accused to custody. When, however, the State is aggrieved by the order of the Sessions Judge granting bail and there are no new circumstances that have cropped up except those already existed, it is futile for the State to move the Sessions Judge again and it is competent in law to move the High Court for cancellation of the bail. This position follows from the subordinate position of the Court of Session vis-a-vis the High Court.”

27. In **Yogesh Kumar Garg v. State of U.P.**, 2024 SCC OnLine All 8092, it has been observed as under:

“In the case at hand, the applicant/first informant herein had already approached the Court of Sessions, Ghaziabad seeking cancellation of the bail granted by it under Section 439(2) of the Cr. P.C. The Court of Sessions vide order dated 10.9.2024 refused to cancel the bail already granted. In the opinion of the Court, the applicant having exercised his option to seek cancellation under Section 439(2) of Cr. P.C. before the Court of Sessions cannot now approach this Court by moving another Bail Cancellation Application under Section 439(2) Cr. P.C. A challenge would have to be made to the orders rejecting the Bail Cancellation Application and the same cannot be achieved in the present proceedings. Had the applicant/first informant approached this Court at the first instance seeking the cancellation of the bail granted to the opposite party No. 2 by the Court of Sessions by its order dated 23.12.2022 invoking the provisions of Section 439(2) of Cr. P.C., the application would be maintainable of Section 439(2) of Cr. P.C., the application would be maintainable.”

28. The Supreme Court, in **Abhimanue v. State of Kerala**, 2025 SCC OnLine SC 2037, has observed as under:

“14. Before proceeding further, we consider it appropriate to begin our analysis by addressing one of the arguments raised by Mr. Chakraborty. He has challenged the very maintainability of the application filed before the High Court. According to him, once an application under Section 439(2), Cr.P.C. seeking cancellation of bail has been rejected by the Sessions Judge, a second application under the same provision cannot be filed directly before the High Court. Instead, the proper course



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would be either to challenge the Sessions Judge's order in a petition for revision, or to invoke the inherent powers of the High Court under Section 482, Cr.P.C.

15. We are unable to agree with this argument. We note that, in the present case, the application before the High Court was filed under "Section 482 r/w 439(2) of Code of Criminal Procedure". That being the case, nothing prevented the High Court from exercising its inherent powers."

29. Thus, the power conferred upon the Magistrate under Section 437(5) CrPC does not whittle down or restrict the power vested in the High Court or the Court of Session under Section 439(2) Cr.P.C., which extends to a person who has been released on bail by a Magistrate.

30. The Court of Session, being a superior Court to the Court of the Chief Judicial Magistrate, was competent to entertain the application filed by the complainant seeking cancellation of the bail which had been granted by the Magistrate Court.

31. There is a further reason why the submission of the petitioner must fail.

32. The liberty enjoyed by the petitioner flowed directly from the order dated 08.11.2023 granting anticipatory bail on the basis of the mediated settlement.

33. The order dated 01.02.2025 passed by the learned CJM followed directly from the earlier order dated 08.11.2023. The said order did not do away with the basis on which the petitioner's liberty had originally been granted, nor did it shield him from the consequences of breaching the terms on which that liberty was granted.

34. It is next contended that bail cannot be cancelled merely on account of the accused's failure to comply with the terms of a settlement, as bail proceedings cannot be employed as a mode of recovery of money. It is



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further contended that the petitioner has not violated any condition of the order dated 01.02.2025. In support of these submissions, reliance has been placed on the following judgments:

- (i) ***Shivnarayan Yadav vs. The State of Jharkhand & Anr.***, passed in Cr.M.P. No.886/2024 (in the High Court of Jharkhand at Ranchi);
- (ii) ***Biman Chatterjee vs. Sanchita Chatterjee and Anr.*** (2004) 3 SCC 388; and
- (iii) ***Dilip Singh vs. State of Madhya Pradesh and Anr.*** (2021) 2 SCC 779

35. It is true that the jurisdiction to grant or cancel bail is not a mechanism for recovery of money, and that a mere failure to pay an amount agreed upon under a settlement would not, by itself and without more, justify cancellation of bail. However, that is not the case here.

36. The Impugned Order does not rest on non-payment of money alone. It rests on the petitioner's conduct towards the Court inasmuch the following circumstances have been clearly noted:

- (i) The petitioner obtained anticipatory bail on the basis of a mediated settlement which he did not honour and the cheque itself issued by the petitioner pursuant to the Mediated Settlement Agreement was dishonoured;
- (ii) On 25.09.2024, the accused undertook to settle the disputes *vide* the statement recorded before the Trial Court. However, the same was not done;
- (iii) The petitioner gave a further undertaking to the Court on 08.06.2026 to execute a registered sale deed in favout of the complainant, which was accepted by the complainant. However the



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same, too, was not honoured by the petitioner; and

(iv) The petitioner failed to appear in person despite specific directions necessitating nonailable warrants and offered an explanation which the Court found to be a “lame excuse”.

37. An accused who secures his liberty by holding out a settlement and then repeatedly acts in violation / breach of undertaking given to the Court, abuses the process of the Court and the liberty granted to him. Further, the very order dated 01.02.2025 on which the petitioner relies, requires him to appear before the Court, as and when directed.

38. The finding of the learned Principal District & Sessions Judge that the petitioner had entered into the settlement without any intention of honouring the same is a significant finding. The same cannot be said to be perverse or based on irrelevant considerations.

39. It is well settled that the jurisdiction under Section 528 of the BNSS is to be exercised sparingly, either to prevent abuse of the process of law or to secure the ends of justice.

40. The conduct of the petitioner, far from warranting the exercise of such jurisdiction, has been obnoxious.

41. In the circumstances, no ground is made out to interfere with the Impugned Order or with the nonailable warrants.

42. The petition is accordingly, dismissed.

SACHIN DATTA, J

SEPTEMBER 22, 2026/cl