BLOGS

Warrants in the Code of Criminal Procedure

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Introduction

A warrant is a legal document or authorization issued by a judge, competent officer, or magistrate, permitting the performance of an action that would otherwise be considered unlawful and may violate human rights.

It also provides protection to the person executing the warrant from any potential harm while carrying out the specified act. This written instrument is issued by the court to demand the presence, arrest, or search of a person or location as required.

The primary reason for issuing warrants is to ensure the proper administration of justice. A warrant of arrest may be issued as a precautionary measure, compelling the accused to appear in court.

This is done to prevent individuals who have committed a cognizable offense, are habitual offenders, or have served time in prison from freely moving around without restrictions. The warrant serves as evidence that the person's arrest is valid until it is executed or canceled by the issuing court.

Essential Elements of a Warrant

Section 70 of the Criminal Procedure Code, 1973 (CrPC) outlines the essential elements of a warrant. A warrant is a written authorization issued by a Magistrate, and it must be embossed with the court's seal.

The key components of a warrant, as per the CrPC, are as follows:

1. Form and Writing: The warrant must be in writing, meaning it must be documented in a written format and not merely verbal.

2. Signature of a Magistrate: The warrant must be signed by a Magistrate, who is a judicial officer with the authority to issue such orders.
3. Seal of the Court: The warrant should bear the official seal of the court from which it is issued. The court seal serves as a mark of authenticity and authority.

As per CrPC, the content of a warrant must include essential information such as the identification of the person to be arrested or subjected to the warrant's action, specifying the offence or purpose for which the warrant is issued to ensure a clear legal basis for the person's apprehension or action.

Additionally, the warrant should expressly state the individual's right to be informed about the grounds of their arrest, aligning with the principles of natural justice to ensure fairness and transparency.

In certain cases, the warrant may also outline conditions for the release of the detained person on bail, specifying that they can be freed upon signing a bail bond and providing suitable security. These elements are crucial in safeguarding the rights of individuals and maintaining the integrity of the legal process.

Types of Warrants

In CrPC, there are four major types of warrants issued by courts:

1. Arrest Warrant: This is a written order issued by a judge or magistrate, supported by a sworn affidavit, authorizing the arrest and custody of a person accused of committing a specific offense. It is required when an offense occurs outside the direct sight of a police officer, ensuring a lawful arrest based on reasonable cause.
2. Search Warrant: A search warrant is an order granted by the court, based on probable cause provided in a sworn affidavit, allowing law enforcement officials to search a particular location for evidence related to a specific offense.
3. Bench Warrant: When a defendant fails to appear for a scheduled court appearance, a bench warrant may be issued as an alternative to an arrest warrant. It directs law enforcement to bring the person before the court.
4. Execution Warrant: This type of warrant allows the implementation of a death sentence against a person convicted of a capital crime. It specifies the time and location for the

execution, resembling an arrest warrant in format but with a drastically different outcome.

Execution and Procedure of Issuing Warrant

Execution

According to **Section 72 of the CrPC**, any police officer or authorized person may execute the warrant. If the warrant is directed to a specific police officer, it can be executed by another officer endorsed by the named officer **(Section 74)**.

When the execution is outside the local jurisdiction, the warrant must be directed to the Executive Magistrate, District Superintendent of Police, or Commissioner of Police within the jurisdiction, who may endorse the name of a police officer **(Section 78)**.

Upon arrest, the person must be taken before the appropriate Magistrate or police authority **(Section 80)**.

Procedure

The warrant must be executed between 6 a.m. and 10 p.m., unless extended by a judge, with the defendant informed of its contents **(Section 75)**. The police officer executing the warrant can accept a signed guilty plea and fine, or a not guilty plea with collateral, unless immediate presentation before the issuing authority is required **(Section 75)**.

The arrested individual must be presented before a court without undue delay **(Section 76)**. The police officer must issue a receipt to the defendant, stating the fine or costs paid, or provide a return copy of the receipt if any guarantee is received, both signed by the defendant and the officer.

Conclusion

In conclusion, CrPC provides clear guidelines for the execution and procedure of warrants. Warrants are written orders that authorize specific actions, such as arrests or searches, and must contain essential information to ensure the rights of individuals are protected. Adherence to the procedural requirements of warrants in the CrPC ensures fairness, transparency, and proper administration of justice in the criminal justice system.