

**EXECUTION OF ARREST WARRANT, EFFECTING THE
ARREST**

The Sheriff of Mumbai or the Admiral Marshal or his substitute may execute a warrant of arrest on the ship.

If the warrant of arrest is dispensed with by the Admiralty judge while passing the order of arrest of the vessel, the port, custom and other authorities act upon the order passed, not allowing the vessel to sail outward from its jurisdiction. A copy of the order passed by the court for arrest of the vessel should be communicated to all concerned authorities by hand, fax or email, followed by authenticated or true copy of the order to the concerned authorities. A copy of the order should also be served upon the port agent of the vessel who acts as the agent of the owner of the vessel.

The Marshal or Sheriff will not act until he has received the warrant of arrest issued from the registry and a deposit towards his fees and expenses and, as there is invariably some delay before the warrant of arrest is issued from the office of the registry and reaches the office of the Marshal or Sheriff, it is convenient to intimate to the Marshal or Sheriff, as soon as the judge's order for arrest is signed, or an separate order passed in an application, information as to where the ship is to be found which will enable him to arrange for his substitute, who will effect the arrest, to be readily available to proceed to the ship as soon as the warrant of arrest is lodged in his office. The plaintiff or his advocate will have to provide a conveyance to the ship for the person entrusted with the service and, if the ship happens to be at an anchorage berth, a launch to enable him to go on board.

The Marshal or Sheriff, before he proceeds to effect the arrest will require an initial deposit of a sum towards such expenses as may be incurred by him in connection with the custody and care of the ship while under arrest; he will also require a personal undertaking from the plaintiff's advocate to make further deposits towards such expenses as and when required. Before giving such an undertaking, the plaintiff's advocate should ensure that he himself is placed in sufficient funds by his client who may not be resident within the jurisdiction. The plaintiff will have a first charge in respect of the said expenses on the sale proceeds of the ship. In the event of the prompt release of the ship, on giving of security for the claim in suit, there will be no expenses incurred by the Marshal or Sheriff on its custody and the whole of the deposit placed with him will fall to be refunded to the plaintiff or his advocate.

After arresting the ship the Marshal or Sheriff will issue intimations in writing to the customs and harbour authorities of the arrest, enjoining them against the grant of customs and port clearance to the ship until they have received further intimations from him that the arrest has been lifted. It is advisable for the plaintiff's advocate to ensure that such intimations reach the said authorities expeditiously.

If the court has passed an order of arrest of the ship dispensing the Warrant of Arrest, in such event the Sheriff or Marshal will issue a letter and the same along with copy of the order is served on the ship and other concerned authorities and if there is a order for concerned authorities to act on fax or email copies, this is normally done attaching /faxing the cover letter issued by the sheriff/marshal along with copy of the order for arrest of the vessel.

Freight cannot be arrested separate from the ship or cargo, and so freight which has already been paid to the ship owners by the consignees cannot be arrested. Where, however, a claim is brought against ship and freight, the

court may order that the Sheriff of Mumbai or the Admiral Marshal should sell the cargo under arrest and pay the freight from the proceeds of sale.