

05.04.2019
P.B.

C.R.R. 11 of 2019
CRAN 1 of 2019

In Re:- Parman Lama.

Mr. Debajit Kundu.

.....For the petitioner

The petitioner accused has assailed the order dated 4th March, 2015 passed by learned Additional Sessions Judge, 1st, Fast Track Court, Jalpaiguri, in connection with Banarhat P.S. Case No.38/2012 dated 2nd February, 2012 (G.R. No.427/2012) being charge sheet no.130/2012 dated 24th March, 2012 under Sections 279/304 of the Indian Penal Code now pending in the court of learned Additional Sessions Judge, 1st, Fast Track Court, Jalpaiguri,

It would appear from the order that the case was committed to the court of sessions on 4th March, 2013 and the date was fixed for appearance of the accused on 7th March, 2013. The accused petitioner was on bail and was in attendance on the date fixed till 18th February, 2014. Thereafter, he was found absent without any step. Yet a date was fixed for consideration of charge on 4th March, 2015 with the direction of surety to produce the accused, but the surety did not produce the accused. So, direction was given to issue warrant of arrest

against the accused and to start proceeding under Section 446 Cr.P.C. against the surety. Since then, warrant of arrest has not been executed. However, for ends of justice, the learned court deferred the case from time to time for its execution. It would reveal that written orders were passed only by posting the dates for execution of warrant of arrest but no warrant of arrest has been issued so far. The order dated 31st August, 2016 reflects that the warrant of arrest for the first time was issued on that date. Yet, warrant of arrest could not be executed despite the issuance of reminder. Neither the surety nor the accused petitioner bothered to appear before the court to face the trial and the petitioner has been instrumental in delaying the opening of the trial with the framing of the charges. Order sheet further reveals that the date is being posted for execution of warrant of arrest with the written order of issuance of reminder, but no reminder has yet been issued. Therefore, the order which has been assailed in this revisional application cannot be assailed on the grounds made out by the petitioner in his ground of revisional application because the steps taken by the learned court is absolutely legal and this revisional application merits no consideration.

Hence, the application being CRR 11 of 2019 is dismissed with direction to the petitioner to surrender before the learned trial court within a period of two weeks from this date and to face trial.

The application being CRAN 1 of 2019 is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, shall be given to the petitioner as expeditiously as possible.

(Shivakant Prasad, J.)