HIGH COURT OF TRIPURA
AGARTALA

Crl. Rev. P. 64 /2019

Pranab Das @ Mona Das

----Petitioner(s)

Versus

The State of Tripura

----Respondent(s)

For the Petitioner(s)	:	Mr. S.B. Deb, Advocate
For Respondent(s)	:	Mr. Ratan Datta, PP Mr. P. Datta, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH

Order

10/01/2020

Heard Mr. S.B. Deb, learned counsel appearing for the petitioner as well as Mr. Ratan Datta, learned PP appearing for the State-respondent and Mr. P. Datta, learned counsel appearing for the Union of India-respondent.

The solitary question involves in this petition is that whether after filing of charge-sheet, the trial court can issue non-bailable warrant at the first instance without issuing summon against the accused.

This court has called for the lower court records and it has been produced before this court. I have perused the orders passed on different dates by the Special Judge (NDPS) Khowai, Tripura.

Mr. Deb, learned counsel appearing for the petitioner has urged that, the court cannot issue non-bailable warrant at the first instance upon any accused after receipt of the charge-sheet. This submission has led this court to peruse the order dated 02.05.2019 passed by the Special Judge (NDPS) Khowai, Tripura.

The order dated 02.05.2019 is reproduced here-in-below, in verbatim, for convenience:

"In the Court of Special Judge (NDPS)
Khowai Tripura
Case No. Spl. (NDPS) 22 of 2018
The State of Tripura -Vs- Sriniwas Yadav.

Present
G. Sarkar
Special Judge(NDPS)
Khowai Tripura

Counsel
For the prosecution:- Mr. Debashis Debnath
(Ld. Special P.P.)
-Vs
For the Accused:- Mr. S.K Paul
For the Union of India:- Shri. K. Datta.
(Ld. Advocate)

02.05.2019

Accused person namely Sriniwas Yadav is produced before this court from Jail Custody.

Ld. Advocate Mrs. J. Bhattacharjee appeared for and on behalf of the Union of India.

Received a report from O.C Madhupur Police Station vide despatch No. 4717 dated 26.03.2019.

Perused the report.

On perusal of the report it appears that NBWA issued against the accused Bushan Paul, Bishalgarh, Purathal Rajnagar under Bishalgarsh Police Station, District Shipahijala by this court is now falls under Madhupur Police station and as such O.C Madhupur Police Station prayed before this court to issue a fresh NBWA against the accused Sri Bushan Paul.

Keep the report with the case record.

Prayer of O.C Madhupur Police Station is allowed.

Issue fresh warrant upon the accused Bushan Paul and issue re-call earlier NBWA against him.

Also warrant issued against rest accused persons namely, Pranab Das @ Mona Das, and Asit Sarkar are lying with O/C, Amtali P.S for execution.

But no report is received from the OC, Amtali Police Station, a such O.C. Amtali is further directed to execute the warrant positively by the next date and to return back the warrants to this court after execution with report without fail and excuse.

Send a copy of this order to OC, Amtali Police Station, District: West Agartala.

No bail application is filed on behalf of the accused Srinivash Yadav.

Hence, accused Srinivash Yadav is further remanded to J.C till. 04.06.2019.

To 04.06.2019 for ER/ production of the accused.

As dictated. **Special Judge(NDPS)**
Khowai Tripura"

The Special Judge (NDPS), Khowai, again on 03.07.2019 has passed the following order, which is reproduced, here-in-below, in extenso:

"In lieu of the order sheet
In the Court of Special Judge (NDPS)
Khowai Tripura
Case No. Spl. (NDPS) 22 of 2018

The State of Tripura -Vs- Sriniwas Yadav.

Present
P.K. Datta
Special Judge(NDPS)
Khowai Tripura

03.07.2019

Ld Spl PP is present for the prosecution.

Accused Sri Sriniwas Yadab was allowed to go on bail till 19.07.2019 in connection with this case.

Ld Standing Counsel is also present.

Ld Counsel Mr C Das is also present on behalf of the accused.

My attention is drawn by Ld Standing Counsel by stating that against the four accused persons charge-sheet is filed in this case. Except Sri Sriniwas Yadab other three accused persons are absconding.

I have perused the case record and find that copy of order was communicated to the OC, Amtali PS on 03.05.2019. Thereafter, warrant of arrest was also issued against the accused persons namely Sri Pranab Das @Mona Das and Sri Asit Sarkar vide nos. 218 and 219, dated 10.06.2019 followed by reminder to the OC, Madhupur PS vide despatch no. 5256, dated 10.06.2019. Despite of all these processes there is no execution report from the OC, Amtali PS or OC, Madhupur PS.

Hence, a copy of this order be communicated to the SDPO, Amtali to ensure execution of warrant of arrest pending against Pranab Das @Mona Das and Sri Asit Sarkar or in the alternative the OC must submit their reports on the next date.

Since Madhupur PS is under the jurisdiction of Bishalgarh, hence a copy of order be communicated to the SDPO, Bishalgarh to ensure execution of warrant of arrest against Bushan Paul which was issued through OC, Madhupur PS vide despatch no 205, dated 03.05.2019.

Inform accordingly.

Fix 19.07.2019 for appearance of the accused/ER/order.

As dictated.

(P.K. Datta)
Special Judge(NDPS)
Khowai Tripura"

I have also perused the order dated 03.07.2019 passed by the Special Judge (NDPS), Khowai. From the order dated 02.05.2019, as reproduced here-in-above, it is clear that the Special judge (NDPS) Khowai, perhaps could have realized the mistake he has committed by issuing non-bailable warrant upon the accused-person at the very first instance and for that reason, he had rectified his order and passed the order dated 02.05.2019, wherein the Special Judge (NDPS) Khowai, had re-called the order of issuance of non-bailable warrant against the accused persons. However, after the order being re-called, the Special Judge (NDPS), Khowai had issued fresh warrant of arrest

against the accused person, and in my opinion, it was passed correctly in view of Section 204(1)(b) of the Cr.P.C.

From the subsequent orders, as reproduced here-in-above, it is further confirmed that the Special Judge (NDPS), Khowai had issued warrant of arrest for production of the accused person before the court for the purpose of trial. As such, I find no substance in the submission of the learned counsel appearing on behalf of the accused person that the court had issued non-bailable warrant at the very first instance, which is illegal.

It is abundantly clear that the Special Judge (NDPS), Khowai had rectified the order and had issued fresh warrant of arrest vide order dated 02.05.2019 and all the subsequent orders passed by the court are necessary directions upon the police officials to execute the warrant of arrest. Further under Section 204(1)(b) of Cr.P.C. in a warrant procedure case, the court can either issue a warrant of arrest or summon whatever, the learned court thinks fit. It is the discretion of the court. The present case relates to warrant procedure case, and I find no wrong in the issuance of warrant of arrest against the accused-person. No other points are agitated at the time of hearing of the instant case.

Be that as it may, I do not find any merit to challenge the impugned order passed by the Special Judge (NDPS), Khowai Judicial District as agitated in the petition.

Accordingly, the criminal revision petition stands dismissed.

The accused petitioner is directed to surrender before the Special Judge (NDPS), Khowai within a period of 7(seven) days from today.

Registry is directed to return back the LCRs forthwith.

JUDGE

HIGH COURT OF TRIPURA

Saikat