

27.11.2020
Ct. No. 19
Item No.7

In The High Court At Calcutta
Criminal Revisional Jurisdiction
Appellate Side

CRR 1473 of 2020
Jahiruddin Sapui @ Babar
v.
The State of West Bengal

Present:-
The Hon'ble Justice Jay Sengupta

Ms. Minati Gomes
Ms. Manika Sarkar
... for the petitioner.

Mr. Ranabir Roychowdhury
... for the State.

Heard on :- November 27, 2020.

Judgement on:- November 27, 2020.

This is an application challenging the order dated September 18, 2020 passed by the learned Additional District & Sessions Judge, 6th Court at Barasat in Case No. 146 of 2020 under Section 21(C) of the NDPS Act, thereby, inter alia, adjourning the holding of an enquiry on the question of juvenility of the petitioner till the normal

functioning of the Court resumed after the Covid-19 Pandemic.

Affidavit-of-service filed on behalf of the petitioner is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a minor and is facing a criminal trial. He is still in custody in spite of the fact that he is a juvenile. An application in this regard seeking an enquiry regarding juvenility of the petitioner was filed before the learned Trial Court on August 19, 2020. The learned trial Court, amongst other things, held that during such enquiry the original birth register was required to be called for and the same was required to be proved by taking evidence of the concerned authority. The learned Court went on to hold that due to the Covid-19 pandemic it was not possible to hold such enquiry in the matter. The right to life and liberty is utmost important and is guaranteed by the Constitution of India. Since the petitioner is in custody, his application to hold an enquiry on the question of juvenility could not have been postponed on any pretext.

Learned counsel appearing on behalf of the State, in his usual fairness, submits that the State would not come in the way if a direction is passed upon the learned trial Court to conduct necessary enquiry into the question of juvenility of the accused petitioner within a stipulated time.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner and the State and have perused the revision petition.

Life and liberty of citizens are too precious.

It is possible that the petitioner is found to be a juvenile and is also found to be entitled to necessary benefits under the Juvenile Justice (Care and Protection of Children) Act, 2015. Then an enquiry into the juvenility of the petitioner shall not remain postponed only because of prevailing Covid-19 pandemic.

In any event, the Courts have started functioning, albeit in a staggered manner.

In view of the above and in the interest of justice, I request the learned trial Court to conclude the hearing on the question of juvenility of the petitioner after taking

necessary evidence as expeditiously as possible without granting any unnecessary adjournment to any of the parties, preferably within a period of two months from the date of communication of this order.

With these observations, CRR 1473 of 2020 is disposed of.

Urgent photostat certified copies of this judgment may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

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(Jay Sengupta, J.)