

06.01.2021
Sl. No.29

Court No.42
BM

CRR 3 of 2021
+
IA No.: CRAN 1/2021

Jay Debnath @ Joy Debnath
Vs.
The State of West Bengal

Mr. Sumanta chakraborty ... for the petitioner

Mr. Madhusudan Sur, learned APP
Mr. Dipankar Paramanik ... for the State

The petitioner has prayed for condonation of delay of one year twenty four days in preferring the revisional application. The reasons so assigned in paragraph 3 of the application for condonation of delay are found to be sufficient. As such delay in preferring the revisional application is allowed.

Learned advocate for the petitioner has drawn the attention of this Court to the order dated 07.09.2019 and 07.12.2019 and I find from the order dated 07.12.2019 that proclamation and attachment was issued simultaneously which is against the spirit of Section 82 and 83 of the Code of Criminal Procedure, additionally there is no reflection that any report has been received regarding non-execution of the warrant of arrest which was earlier issued by the learned court.

Mr. Sur, learned advocate opposes the application as the case was registered in the year 2016 and charge sheet was submitted on 14th July, 2016.

I have considered the submissions of the rival parties and the order issuing proclamation and attachment do not inspire

confidence of this court regarding its legality, as the order touches the right of the accused for preferring an application under Section 438 of the Code of Criminal Procedure, I am of the opinion that a balance has to be drawn between the plight of the victim as well as the liberty of the accused.

In view of the aforesaid the order of proclamation and attachment so issued on 07.12.2019 be stayed for a period of three weeks from date. The petitioner, if so advised will exercise his remedies before the appropriate court. The order of proclamation and attachment would revive on and from 01.02.2021.

The Police authorities are directed to execute the same after 01.02.2021 if the same is not executed till date.

The revisional application being CRR 3 of 2021 and connected application being IA No.: CRAN 1/2021 are disposed of.

Urgent xerox certified copy of this order, if applied for, be given to the learned advocates for the parties on the usual undertaking.

(Tirthankar Ghosh, J.)