

13.01.2021
Item no.13
Ct. No.42
CHC

C.R.R. No.95 of 2021

In Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure.

In the matter of:-

Sahidul Molla & anr.
.....petitioners

Mr. D. Chatterjee,
Mr. Asit Nayek
... for the petitioners

Ms. Sukanya Bhattacharyya
Md. Kutubuddin
... for the State

Liberty is given to correct the cause-title mentioning appropriate sections involved in the instant case.

The impugned order dated 29th February, 2020 passed by the learned Additional Chief Judicial Magistrate, Basirhat in connection with G.R. Case No.263 of 2017 under Sections 413/414 of the Indian Penal Code read with Section 11 of the Prevention of Cruelty to Animal Act, 1860 and Section 180 of the Motor Vehicle Act issuing warrant of arrest against the petitioners is under challenge.

The copy of this revisional application is handed over to learned advocate, Ms. Sukanya Bhattacharyya, who ordinarily

represents the State/opposite party, being empanelled in the list of advocates defending the State.

Learned advocate for the petitioners submits that learned Magistrate by the impugned order has mechanically issued Warrant of Arrest without applying his judicial mind. Petitioners are stated to be previously on bail, and for the misconception of date, they could not ensure their appearance leading to issuance of Warrant of Arrest against them. The case stands, as it is a case of misuse of liberty.

Ms. Bhattacharyya, learned advocate for the State raises strong objection against the prayer for bail submitting that when the petitioner has misused the privilege of bail, the case should not be likely viewed.

Upon consideration of the submission of the parties, the Court finds sufficient reasons to dispose of the case bearing in mind the urgency involved behind the execution of Warrant of Arrest against the petitioners.

Let there be an order directing stay of execution of Warrant of Arrest, issued by the impugned order, against the petitioners (Sahidul Molla and Md. Zakir Hossin Molla) for a period of three weeks from hence, subject to the conditions that petitioners shall surrender before the learned court below within two weeks from this date, and upon surrendering, if any bail petition is filed before the court below, the same will be disposed of providing sufficient opportunity of hearing to either of the parties to this case, in accordance with the provisions of law.

With this direction, the instant revisional application stands disposed of.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Subhasis Dasgupta, J.)