

14.01.2021
Item no.3
Ct. No.42
CHC

**C.R.R. No.489 of 2020
(Physical Hearing)**

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973.

In the matter of:-

Sri Bhajahari Dutta
.....petitioner

Mr. Narayan Ch Mondal,
Mr. Bhaskar Mondal,
Ms. Moushumi Chatterjee
... for the petitioner

Mr. Saswata Gopal Mukherji, Ld. P.P.
Mr. Arijit Ganguly
... for the State

Report filed by the learned advocate representing the State be kept on record.

This is to secure direction for expeditious disposal of a pending case of learned Additional Chief Judicial Magistrate, Barasat, North 24 Parganas in connection with G.R. No.100 of 2017 under Sections 379/411 of the Indian Penal Code.

Learned advocate, Mr. Narayan Ch. Mondal for the petitioner submits that in this case charge-sheet has been submitted on 22nd February, 2017 against as many as three accused persons, out of them two accused persons are now on bail, and another accused Bablu Sk. is evading arrest at the moment.

It is further submitted that without any fault on the part of the petitioner, the case is getting delayed leading to the protraction of trial.

Learned advocate, Mr. Ganguly representing the State/opposite party no.1 produces the report regarding the status of the case pending at the court below and it appears therefrom that Warrant of Arrest is still pending against one Bablu Sk. The xerox copy of the certified copy of the order annexed with the instant revisional application shows that the case is awaiting execution of Warrant of Arrest against one of the accused persons.

The situation, as it stands, is very clear to reveal that charge could not be framed as yet for one of the accused persons having not yet been booked so as to face trial. The learned court below has already taken steps for securing presence of absconding accused by issuing Warrant of Arrest. The said process is awaiting execution. There are other stages available to exhaust the process so as to secure the presence of person evading arrest. After exhausting the process, it would be the liberty of learned court below to exercise its discretion in accordance with the provisions of the law, and that too most judicially, whether the case may be proceeded with by framing charge upon exhausting all the process, as available in the Code of Criminal Procedure to secure presence of a person evading arrest. All the process thus have to be exhausted by the learned court below. After exhausting the process, a suitable date may be fixed for framing charge so as to

lead commencement of the trial. Since charge has not yet been framed, firstly the learned court below should put its endeavour to frame the charge immediately after exhausting the process against accused person. After framing charge, the trial may be commenced aiming at ensuring expeditious disposal of the pending case.

With this direction/observation, the 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.)

