

17.06.2021
p.b.
SL No.44.

CRR 1348 of 2021
(Via Video Conference)

In Re: Bharati Ghosh & Ors.
.....petitioners

In Re: An application under Sections 397/401 & 482 of
the Code of Criminal Procedure, 1973.

Mr. Sujay Sarkar.
.....for the petitioners.

In this revisional application an order dated April 16, 2021, passed by the learned Additional Sessions Judge, Special Court (POCSO), Bolpur, Birbhum in connection with Special (POCSO) Case No.28 of 2020 under Sections 363/366/120B of the Indian Penal Code 1860 read with Sections 4/6 of the Protection of Children from Sexual Offences Act, has been challenged.

The order impugned, as it appears, is nothing but a compliance of an order dated April 13, 2021 passed in CRA 826 of 2021 by this Court. The said order was passed on an application for anticipatory bail filed at the instance of one Hemanta Ghosh. This Court in the said order observed as follows:-

“Having regard to the statement of the victim recorded under Section 164 Cr.P.C. and the medical examination reports custodial interrogation of all the accused persons ought to have been done instead of it appears that the learned Additional Sessions Judge, Bolpur, Birbhum granted bail to six accused persons who misused the liberty granted to them and presently are absconding. The present petitioner is part of the conspiracy as evident from the statement recorded under Section 164 of the Code of Criminal Procedure. In view of the incriminating materials available against all the accused persons including the petitioner, we feel that the custodial detention of the petitioner is necessary and we find no reason to grant anticipatory bail to the petitioner.

We direct the Superintendent of Police, Birbhum to execute the warrant of arrest on or before 18th April, 2021, and produce all the accused persons before the learned Trial Court. The learned trial court shall deal with the execution of all warrant orders in accordance with law. This order shall immediately be communicated by the Registrar General to the District Judge, Birbhum who shall ensure compliance of this order. This order shall also be communicated to the jurisdictional Superintendent of Police by the learned Registrar General for compliance.

This matter shall be listed on Monday under the heading “To Be Mentioned” only for the purpose for recording compliance.”

As indicated hereinabove, the order impugned in this application was passed in compliance of the said order dated April 13, 2021.

Mr. Sarkar, learned advocate appearing for the petitioners submits that in compliance of the impugned order dated 16th April, 2021 the petitioners have been apprehended again and they are in custody. Mr. Sarkar strenuously argues that all the petitioners were enlarged on bail and they have never flouted any of the conditions of bail and there were no pending warrants against them. Mr. Sarkar submits that order of the High Court was to be applied only for execution of the warrants which were already pending. There was no scope on the part of the learned Sessions Judge to again pass the order issuing fresh warrants against them. Mr. Sarkar prays for interim bail for the petitioners in this revisional application.

I am of the opinion that prayer for bail in this revisional application is not maintainable. The petitioners may apply for regular bail in accordance with law and if they are so advised, they may pray for clarification of the order dated April 31, 2021 passed by this Court.

Learned Sessions Judge had no option but to comply with the order dated April 13, 2021 passed by this Court.

For the reasons as aforesaid, I do not find any reason to interfere with the order impugned in this revisional application.

Accordingly, the revisional application is dismissed.

(Kausik Chanda, J.)