

19.08.2021
Ct No. 35
D/L 113
ab

C.R.R. 1607 of 2021
(Via Video Conference)

Re: An application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973.

In re : **Kaushik Samanta,**

... Petitioner

Mr. Milon Mukherjee,
Mr. Biswajit Manna,
Mr. Santanu Talukdar,

... for the petitioner

Ms. Sukanya Bhattacharya, learned advocate, who usually appears for the State, has been requested to appear in this matter on behalf of the State.

Let the appointment of Ms. Bhattacharya be regularised.

A copy of the revisional application has been served upon her.

Mr. Milon Mukherjee, learned Senior Advocate appears for the petitioner and challenges an order dated March 8, 2021, passed by the learned Chief Judicial Magistrate, Howrah in connection with G.R. Case No. 01 of 2020 under Sections 302/120B/34 of the Indian Penal Code, 1860.

The charge sheet, in this case, has been submitted against the petitioner. In view of his failure to remain present in the Court, the learned Magistrate in the Court below issued a warrant of arrest against the petitioner on November 13, 2020. Thereafter

by the order impugned, the learned Magistrate in the Court below simultaneously issued a proclamation and attachment order against the petitioner.

The order impugned does not reflect that the learned Magistrate in the Court below recorded his satisfaction or finding with regard to the non-execution of the warrant of arrest and moreover the simultaneous issuance of proclamation and attachment order is bad in law.

In view of the aforesaid, the order impugned insofar as it relates to the issuance of proclamation and attachment is set aside. The warrant of arrest issued against the petitioner shall remain operative, and the learned Magistrate in the Court below will be at liberty to execute the same.

In the event the learned Magistrate in the Court below is satisfied that the warrant of arrest cannot be executed, upon recording such satisfaction, he will be at liberty to take follow up steps under Sections 82 and 83 of the Code of Criminal Procedure, 1973.

With the observations as above, the revisional application being **C.R.R. 1607 of 2021** is, thus, disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all necessary formalities.

(Kausik Chanda, J.)