

CRR 1678 of 2021

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

In the matter of : **Milan Das & Ors.**

..... petitioners

**Mr. Kallol Mondal
Mr. M. Alam Sk.
Mr. Krishan Ray
Ms. Amrita Chel
Mr. Souvik Das
Ms. Anamitra Banerjee**

.....For the petitioners

**Mr. Madhusudan Sur, Ld. APP
Mr. Dipankar Paramanick**

.....For the State

Initially, a charge sheet in connection with G.R. Case No. 1226 of 2019 was filed under Sections 323/384/420/506/34 of the Indian Penal Code, 1860.

After filing of the said charge sheet it appears that the petitioners surrendered before the learned Magistrate in the Court below and they were granted bail on April 9, 2021.

Thereafter, pursuant to an order dated July 20, 2021, passed by the learned Chief Judicial Magistrate, Malda, a further investigation was carried out and another charge sheet was filed against the petitioners in connection with the said case under Sections 341/325/308/384/420/379/506/34 of the Indian Penal Code, 1860.

In view of the filing the subsequent charge sheet, the learned Magistrate in the Court below issued a warrant of arrest against the petitioners on the very first date.

Learned Magistrate observed that after filing of the second charge sheet, there is no existence of the first charge sheet and the petitioners should be treated as absconding in the eye of law.

Mr. Kallol Mondal, learned advocate appearing for the petitioners, submits that the learned Magistrate ought not to have observed that the petitioners were absconding since they were granted bail by the learned Magistrate in the Court below on April 9, 2021.

I find substance in the submission of Mr. Kallol Mondal that when the petitioners were enlarged on bail, it could not be said that they were absconding and after filing of the second charge sheet, the learned Magistrate ought not to have issued the warrant of arrest at the first instance assuming that the petitioners are absconding.

In that view of the aforesaid, the warrant of arrest issued against the petitioners shall remain stayed for a period of four weeks from date. The petitioners shall surrender before the learned Magistrate in the Court below within the said period of four weeks, and the learned Magistrate in the Court below shall consider the prayer for bail of the petitioners in accordance with law.

If the petitioners fail to appear before the learned Magistrate in the Court below within the stipulated time, the warrant of arrest issued against the petitioners shall revive and the learned Magistrate in the Court below shall execute the same in accordance with law.

The revisional application being **CRR 1678 of 2021**, is disposed of.

All parties shall act upon the server copy of this order duly downloaded from the official website of this Court.

(Kausik Chanda, J.)