

CRR 1671 of 2021

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

In the matter of : **Saptarshi Rakshit and Ors.**

..... petitioners

**Mr. Biswaroop Bhattacharya
Mr. Sourav Chatterjee
Ms. Subhasree Patel
Mr. Saikat Mondal**

....For the petitioners

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

.....For the State

It has been submitted by the learned advocate for the petitioners, that the petitioners were not aware of the present criminal proceeding initiated against them. They have come to know about the present criminal proceeding only from the response of the State in the writ petition being W.P.A. No. 12405 of 2021 filed by petitioner no. 2 seeking police protection so that they can return to their own house in the wake of the post-poll violence.

It appears that charge sheet against the petitioners has been filed under Sections 406/420/34 of the Indian Penal Code, 1860, and the learned Magistrate in the Court below issued a warrant of arrest against the petitioners for their absence in the trial.

Mr. Sourav Chatterjee, learned advocate led by Mr. Biswaroop Bhattacharya, learned advocate, submits that the investigating agency never issued any notice under Section 41A of the Code of Criminal Procedure, 1973, and as such, issuance of the warrant of arrest against the petitioners on the very first day of filing of charge sheet is not sustainable in the eye of law.

Mr. Madhusudan Sur, learned Additional Public Prosecutor, submits that the warrant of arrest has been issued against the petitioners in view of their absconsion and the present case has got nothing to do with the post-poll violence since it was initiated well before the last Assembly Election of the State.

Prima facie, I am satisfied from the charge sheet that the investigating agency did not bother to issue the notice under Section 41A of the Code of Criminal Procedure, 1973 and, therefore, the issuance of the warrant of arrest against the petitioners, on the prayer of investigating agency on the very first day of filing of the charge sheet, is not justified in view of the judgment reported at **(2014) 8 SCC 273 (Arnesh Kumar Vs. State of Bihar and another)**.

In that view of the matter, this revisional application is disposed of with a direction upon the petitioners to surrender before the learned Additional Chief Judicial Magistrate, Contai, Purba Medinipur, within a period of two weeks from date. The warrant of arrest issued against the petitioners shall remain stayed for a period of two weeks. If the petitioners surrender before the learned Additional Chief Judicial Magistrate, Contai, the learned Magistrate shall consider their prayer for bail in accordance with law. If the petitioners do not surrender within the time stipulated as above, the warrant of arrest issued against them may be executed in accordance with law.

It is made clear that I have not gone into the merit of this application for quashing of the proceeding. The petitioners will be at liberty to take all points available to them before the learned Magistrate in the Court below in accordance with law.

The revisional application being **CRR 1671 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.)