

D/L26
November
17, 2021
Bpg.

C.R.R. No.2264 of 2021
(Via Video Conference)

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

Anup Tiwari and another
Versus
The State of West Bengal & Anr.

Mr. Mrityunjoy Chatterjee,
Md. G.N. Imrohi.
...for the petitioners.

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

Learned advocate for the petitioners draws the attention
of this Court to the order dated 02.11.2021 passed by the learned
Senior Municipal Magistrate, Kolkata.

Learned lawyer is aggrieved by the issuance of warrant of
arrest.

I have perused the order passed by the learned
Magistrate and I find that there is no illegality in the order as the
case was at the advanced stage of defence witness when the present
petitioners were not appearing, thereby deterring further progress of
the trial.

Mr. Chatterjee, learned advocate for the petitioners is
directed to serve upon the learned Public Prosecutor, who is present
in Court. Mr. Chatterjee undertakes that the petitioners would

make themselves available on each and every date fixed by the learned trial court.

In view of the undertaking given by the learned advocate for the petitioners, I am of the opinion that an opportunity must be granted to the petitioners although there was no illegality in the order passed by the learned Senior Municipal Magistrate.

The warrant of arrest so issued by the Senior Municipal Magistrate, Kolkata is stayed till 2nd December, 2021.

As such, if the petitioners surrender before the learned Senior Municipal Magistrate by 1st December, 2021, they may be allowed to continue on the same bail and bond on which they were earlier released prior to the issuance of warrant of arrest on 02.11.2021. In case, the petitioners do not appear/surrender by 1st December, 2021, the learned Magistrate would be at liberty to revive the warrant of arrest and exhaust other harsher process of law. It is further made clear that the petitioners would make themselves available on each and every date fixed by the learned Senior Municipal Magistrate.

The learned Magistrate will be at liberty to fix regular dates for completing the defence witness and final arguments of the case. Thereafter, the learned Magistrate at his convenience would deliver the judgment and the same may be preferably by 31st January, 2022. Any violation of the aforesaid conditions would entitle the learned Magistrate to take recourse to harsher process of law.

CRR 2264 of 2021 is accordingly disposed of.

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

(Tirthankar Ghosh, J.)