

IN THE HIGH COURT AT CALCUTTA

Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 2333 of 2021

Asraful Haque @ Sentu

Vs.

The State of West Bengal

For the Petitioner : Mr. Sujoy Sarkar

For the State : Mr. Imran Ali
Mr. M.F.A. Begg

Heard on : 24.11.2021

Judgement on : 24.11.2021

Jay Sengupta, J. :

This is an application challenging the issuance of warrant of arrest, proclamation and attachment issued against the petitioner in a case, inter alia, under Section 302 of the Penal Code.

Let a copy of this application be served upon Mr. Imran Ali and Mr. Mirza Firoj Ahmed Begg, learned Counsels who ordinarily

appear on behalf of the State. Let them represent the State. Their engagement may be regularised by the competent authority of the State in due course.

Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner is an accused in this case. on 26.10.2016, the petitioner was arrested and thereafter on 18.02.2020, he was released on bail. However, due to miscommunications with the learned lawyer, on 21.03.2018 he was absent before the learned Trial Court without any step. Accordingly, a warrant of arrest was issued. The same was pending for sometime. On 19.01.2019, the learned Trial Court was pleased to issue warrant of arrest, proclamation and attachment against the petitioner. A proclamation can be issued only after satisfying oneself about the inability to execute the warrant of arrest. An order of attachment can be issued only after such time as contemplated under law after a proclamation is issued. The petitioner is willing to surrender before the learned Trial Court and join the proceeding at the earliest.

Learned Counsel for the State submits as follows. The petitioner has remained absent for a very long time. After several dates, the order of proclamation and attachment was issued against the petitioner.

I have heard the submissions of the learned Counsels appearing on behalf of the petitioner and the State and have perused the revision petition.

It appears that the petitioner has absented himself for a very long time.

It was only upon being satisfied with the non-execution of the warrant of arrest against the petitioner that the learned Trial Court issued an order of proclamation against the petitioner. However, issuing an order of attachment on the same date on which the proclamation was issued was patently erroneous.

Therefore, the order of issuance of attachment is set aside. However, the warrant of arrest and the order of proclamation are not interfered with.

As the petitioner was absconding since long, this Court refuses to stay the warrant of arrest and proclamation.

The petitioner is directed to surrender before the learned Trial Court within a fortnight from this date. In the event the petitioner surrenders before the learned Trial Court and prays for bail, his application for bail shall be considered in accordance with law.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this judgment may be supplied to the parties expeditiously, if applied for.

All parties shall act terms of a server copy in the order downloaded from the official web site of this Court.

(Jay Sengupta, J.)