

16.03.2021

Item no.36

Ct. No.2

CHC

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION
(Physical Hearing)**

C.R.R. No.57 of 2021

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

In the matter of:-

Jakir Sarkar
@ Jakir Houssain Sarkar

.....petitioner

Mr. Jaydeep Kanta Bhowmik
.....for the petitioner

Mr. Arun Kumar Sarkar, Sr. Govt. Advocate
.....for the State

On the prayer of learned advocate for the petitioner liberty is
given to correct the cause-title.

The impugned order dated 29th January, 2021, issuing
Warrant of Arrest against the petitioner is the subject of challenge
in this revisional application.

Adverting to order dated 19th June, 2020, passed in
C.R.M.4141 of 2020 granting anticipatory bail to the petitioner,

learned advocate for the petitioner submits that even after the petitioner being favoured with anticipatory bail with knowledge of the I.O. of this case, the concerned I.O. of this case again proposed for issuing of Warrant of Arrest against the petitioner showing him absconder, which is grossly illegal and is violation of the settled proposition of the law.

Mr. Arun Kumar Sarkar, learned advocate representing the State submits that the petitioner being already favoured with anticipatory bail order, a notice ought to have been issued in this case, instead of making proposal for issuance of Warrant of Arrest against the accused/petitioner showing him to be absconder.

It cannot be disputed that when the petitioner has already obtained pre arrest bail with sufficient knowledge of the I.O. of this case, issuance of the notice is the only demand of law, that has to be done in compliance of the provisions of the law instead of making proposal for issuance of Warrant of Arrest against the petitioner showing him to be absconder. Since there has been gross illegality committed by the I.O. of this case, the impugned order issuing Warrant of Arrest is not sustainable.

The impugned order is thus set aside.

Learned advocate for the petitioner undertakes to ensure appearance of the petitioner before the court below within a reasonable period of time on the strength of order being passed I C.R.M.4141 of 2020.

With this direction/observation the instant revisional application stands disposed of.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Subhasis Dasgupta, J.)