

January 27, 2022
Sl. No.19
Court No.1
SG/s.biswas

MAT 51 of 2022
With
CAN 1 of 2022

Pranab Kumar Chatterjee @Pranab Chatterjee
vs.
The State of West Bengal and others
(Through Video Conference)

Mr. Aindya Lahiri,	
Mr. Samrat Dey Paul, Advocates	... for the appellant
Mr. Amitesh Banerjee, Senior Advocate	... for the State
Mr. Debasish Chatterjee, Advocate	...for the respondent No.3

This appeal is at the instance of the respondent No.3 in the pending writ petition challenging the order of learned single Judge dated 14.01.2022 passed in WPA 2669 of 2021 directing issuance of warrant of arrest against the appellant and also directing the Officer-in-Charge of the concerned police station to execute the warrant and produce the appellant before the Court on 04.02.2022 when the writ petition is fixed to be listed.

The aforesaid order has been passed in the background of the fact that in the writ petition the prayer of the writ petitioner was to command the official respondents to ensure that the appellant returned the original deed of the petitioner. The appellant is a practicing advocate and he had not appeared personally or through the advocate when matter was called.

The submission of learned counsel for the appellant is that the appellant had executed vakalatnama on

20.12.2021 in favour of his advocate to appear in the pending writ petition, but unfortunately the said advocate was hospitalised on 06.01.2022 on account of brain stroke and was discharged on 11.01.2022. He has referred to the discharge summary of Mani Kamal Hospital filed as annexure C to the petition.

He has further submitted that non-appearance of the advocate on account of illness was not deliberate. He has also stated, on instruction from the appellant, that the appellant undertakes to appear himself or through advocate on 04.02.2022 in the pending writ petition before learned single Judge.

The submission of respondent No.3/writ petitioner is that the title documents are lying with the appellant, which are not returned.

Having examined the impugned order, we find that the warrant of arrest was issued with the object to ensure the appearance of the appellant before learned single Judge on 04.02.2022.

Since an undertaking has been given on behalf of the appellant that he will duly appear before learned single Judge on the next date i.e. 04.02.2022, we set aside the order of issuance of warrant of arrest against the appellant. However, we make it clear that if the appellant fails to appear himself or through the advocate before learned single Judge on the next date or any subsequent date, then learned single Judge will be free to pass an

appropriate order to ensure the appearance of the appellant before the Court.

The appeal and connected application are accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]