

30.05.2022
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RP Ct.07

CRR 1830 of 2022

**Moloy Banerjee
Versus
State of West Bengal**

Mr. Satadru Lahiri
Mrs. Piyali Dutta
Mr. Safdar Azam

.... For petitioner

Mr. Bidyut Roy
Ms. Amita Gaur

.... For State

By this revisional application the petitioner challenges the order dated 21st April, 2022 passed by the learned trial Court issuing warrant of arrest against the petitioner thereby fixing 8th June, 2022 for execution report of warrant of arrest.

Learned advocate appearing on behalf of the petitioner submits that the petitioner is on anticipatory bail but he could not appear before the trial Court as no summon was ever served upon him and thereafter on 10th January, 2022 the learned trial Judge issued direction upon the surety to produce the petitioner on 21st April, 2022. Thereafter, on 21st April, 2022 the learned Judge issued warrant of arrest against the petitioner.

From the certified copy of the order dated 3rd March, 2016 passed by the learned trial Judge it appears that at the time of taking cognizance of offence after submission of the charge sheet the petitioner was granted anticipatory by the learned District and Sessions Judge, Howrah. If that be the position, the question of giving direction upon the surety to produce the petitioner does not arise.

The learned advocate for the petitioner relies on a judgement passed in the case of **Satender Kumar Antil vs. Central Bureau of Investigation & Anr.** reported in **(2021) 10 SCC 773** wherein the Hon'ble Apex Court formulated a guideline in this regard. On careful perusal of the guidelines formulated in *Satender Kumar Antil* (supra) I find that issuance of warrant of arrest against the accused passed on 21st April, 2022 was not proper. That apart nowhere from the order sheet it is found that summon was at all served on the petitioner as there is no endorsement to that effect in the order sheet.

However, considering all the facts and circumstances of the case this application stands disposed of by setting aside the order dated 21st April, 2022 and issue direction upon the learned Special Judge under SC & ST (Prevention of Atrocities) Act, 1989 cum learned Additional District Judge, 1st Court, Howrah to issue a bailable warrant of arrest against the petitioner giving an opportunity to the petitioner to surrender before the learned Court below.

Registry is directed to send a copy of this order to the learned Special Judge under SC & ST (Prevention of Atrocities) Act, 1989 cum learned Additional District Judge, 1st Court, Howrah for the purpose of information.

CRR 1830 of 2022 is disposed of.

(Bibhas Ranjan De,
J.)

