

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 2403 of 2022

**Suman Bera @ Soumyadip Bera
Vs.
The State of West Bengal & Anr.**

**For the petitioner : Mr. Arindam Jana, Adv.,
Mr. Bikram Banerjee, Adv.,
Mr. Arkadeb Biswas, Adv.,
Mr. Sutirtha Nayek, Adv.**

Judgement on : 20.09.2022.

Bibek Chaudhuri, J.

The petitioner has challenged an order dated 12th November, 2018 by filing a revision on 5th July, 2022 inserting Section 482 of the Code of Criminal Procedure with the pleading that in spite of an order under Section 482 of the Code of Criminal Procedure there is no limitation.

It is an unfortunate spectacle that the accused sat tight over the impugned order dated 12th November, 2018 and only when a subsequent order dated 7th May, 2022 was passed against the petitioner without referring to the order dated 12th November, 2018, directing the Police Authority to issue warrant of arrest against the accused persons/petitioners, the petitioner has approached this Court under Section 482 of the Code of

Criminal Procedure. It is frankly submitted by Mr. Jana, Learned Advocate for the petitioner that because of the existence of order dated 12th November, 2018 by virtue of which the Trial Court passed an order of issuance of simultaneous W & PA, the petitioner could not file any application for anticipatory bail before this Court. However, the petitioner did not like to agitate this order during the last four years. Considering of such aspect of the matter this Court, *prima facie*, finds that the petitioner has successfully taken the opportunity of statutory jugglery and evaded appearance of the Court.

When this Court is absolutely apathetical towards the conduct of the petitioner, this Court never forgets its duty to deliver justice within the bounds of statutory provision.

The order dated 12th November, 2018 is *per se* illegal because of the fact that a simultaneous order of attachment of property of the accused and declaration of proclaimed offender cannot be made. Therefore, the order dated 12th November, 2018 being illegal is liable to be set aside.

At the same time, this Court is not unmindful to note that warrant of arrest is pending since long against the petitioner and he has avoided appearance.

In view of such circumstances, the petitioner is directed to surrender before the Trial Court within two weeks after Vacation. The Learned Trial Judge is at liberty to consider the application for bail of the accused without being influenced by this order and keeping in mind that warrant of arrest was pending since long against the petitioner.

The instant revision is thus **disposed of**.

The parties are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 14.