

Form J(1)

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

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

C.R.R. 3082 of 2022

**Shahnawaz Khan
Vs.
The State of West Bengal**

**For the petitioner : Mr. Biswajit Manna, Adv.
Mr. Aritra Bhattacharya, Adv.**

**For the State : Mr. Saswa Gopal Mukherjee, Ld.P.P.
Mrs. Debjani Sahu, Adv.**

Heard on : 23.08.2022

Judgment On : 23.08.2022.

Bibek Chaudhuri, J.

In view of the impugned order dated 17.08.2022 passed by the learned Additional Sessions Judge, Fast Track, 2nd Court at Calcutta, the petitioner has prayed for transferring Sessions Case No.2 of 1998 from the Court of the learned Additional Sessions Judge, Fast Track , 2nd Court, Calcutta to the file of the learned Chief Judge, City Sessions Court, Calcutta.

The instant application is taken up for hearing in presence of Mr. Biswajit Manna, learned Advocate for the petitioner and Mr. Saswata Gopal Mukherjee, learned Public Prosecutor, High Court, Calcutta.

Suffice it to mention that Sessions Case No.2 of 1998 is pending for disposal at the stage of argument for quite sometime.

On 3rd August, 2022 adjournment was sought for on behalf of the accused/petitioner due to physical illness of the learned Senior Counsel on behalf of the petitioner. The learned Trial Judge fixed the hearing of the argument on 17th August, 2022.

On 17th August, 2022, another prayer for adjournment was made on behalf of the accused informing the fact of serious illness of Mr. Mukherjee. The learned Trial Judge rejected the prayer for adjournment and *suo moto* appointed an Advocate from the panel of District Legal Services Authority, Kolkata.

Having heard the learned Counsels for the parties, this Court is of the view that the impugned order dated 17th August, 2022 is *per se* illegal because an accused cannot be forced to accept legal assistance of an Advocate from the panel of the District Legal Services Authority, Kolkata when he has already engaged a Senior Counsel to conduct his case. It is within the knowledge of this Court that Mr. Mukherjee, learned Senior Counsel has undergone a spine surgery and he is under bed rest. Therefore, this Court is of the view that when the

Trial Court should not allow procrastination of trial, it must be alive to consider personal predicament of the arguing Counsels. The Trial Court ought to have adjourned the hearing of the case on the ground of serious illness of Mr. Mukherjee, learned senior counsel on behalf of the petitioner.

For the reasons stated above, the impugned order dated 17th August 2022 is set aside.

At the same time, I am not inclined to transfer the case from the 2nd Fast Track Court of the learned Additional Sessions Judge, Calcutta.

The learned Additional Sessions Judge, Calcutta is directed to fix the argument of the case on a date two weeks after Puja Vacation. The learned Senior Counsel on behalf of the petitioner is directed to represent the petitioner in the Court below on the date as fixed by the Trial Court.

The instant revision is, thus, **disposed of on contest.**

(Bibek Chaudhuri, J.)