

Form J(1)

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

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

CRR 3245 of 2022

**Raj Laxmi Kedia & Ors.
Vs.
State of West Bengal & Anr.**

**For the petitioner : Mr. Brajesh Jha, Adv.
Ms. Jonaki Saha, Adv.**

**For the State : Mr. Saswa Gopal Mukherjee, Ld.P.P.
Mr. Anand Keshari, Adv.**

Heard on : 14.09.2022

Judgment On : 14.09.2022.

Bibek Chaudhuri, J.

An order dated 7th April, 2022 passed by the learned Trial Judge issuing warrant of arrest against the petitioners is assailed in the instant revision.

On perusal of the averment made in the instant revision and having heard the learned Advocate for the petitioners, I am of the view that the instant revision may be disposed of here are now with the assistance of the learned Public Prosecutor, High Court, Calcutta.

The petitioner is directed to serve a copy of the instant application upon the learned Public Prosecutor.

I have heard the learned Public Prosecutor.

It is ascertained from the certified copy of the order-sheet of S.T.(11)15 that during 2021, trial of the case could not be commenced for Covid pandemic. Such uncertain situation prevailed till March, 2022. Subsequently on 7th April, 2022 the petitioners failed to appear in the Trial Court and the learned Trial Judge issued warrant of arrest against the petitioners.

It is submitted on behalf of the petitioners that due to Covid pandemic, the petitioners failed to track of the progress of the case in the Trial Court. The learned Advocate who used to represent the petitioners in the Trial Court unfortunately expired during pandemic time. Therefore, the petitioners failed to appear before the Trial Court on 7th April, 2022. There was no intentional laches on the part of the petitioners. The learned Trial Judge, however, issued warrant of arrest against the petitioners.

I have gone through the order dated 7th April, 2022. There is undoubtedly some scope of criticism against the impugned order dated 7th April, 2022. Let me assign the reason:-

Indisputably the petitioners were previously enlarged on bail. Trial of the case was continuing and out of 8 charge-sheeted

witnesses, 7 witnesses were examined. At that stage the learned Trial Judge issued warrant of arrest against the petitioners on 7th April, 2022. However, it is unfortunate to note that the learned Trial Judge before issuance of warrant of arrest, failed to cancel the previous order of bail passed in favour of the petitioners. The bail bonds submitted on behalf of the petitioners were not forfeited without cancellation of previous bail and forfeiture of bail bond, no warrant of arrest can be issued by the Trial Court.

The order impugned is, therefore, bad in law and the learned Trial Judge failed to exercise his jurisdiction vested under the law.

For the reasons stated above, the instant revision is allowed.

Operation and execution of warrant of arrest against the petitioners issued by the Trial Court vide order dated 7th April, 2022 be stayed for a period of 2 weeks after vacation.

The petitioners are directed to surrender before the Trial Court one week after vacation and on such voluntary surrender, petitioners' prayer for bail shall be considered by the Trial Court in accordance with law.

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

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.13..**

D/L.