

Form J(1)

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

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

CRR 3782 of 2022

**Surajit Purkait & Ors.
Vs.
The State of West Bengal**

**For the petitioner : Mr. Sital Samanta, Adv.,
Mr. Debabrata Acharyya, Adv.**

Judgement on : 20.12.2022.

Bibek Chaudhuri, J.

The petitioners have challenged legality, validity and propriety of the order dated 7th April, 2022 passed by the learned Additional Chief Judicial Magistrate at Diamond Harbour in GR Case No. 1212/2020 arising out of Ramnagar Police Station Case No. 52/2020 dated 22nd May, 2020.

It is submitted on behalf of the petitioners that on 7th April, 2022 the learned Magistrate took cognizance of offence upon the charge-sheet filed by the Investigating Officer in connection with the above-mentioned case and directly issued warrant of arrest against the petitioners who were absent on the said date of taking cognizance of offence.

It is not in dispute that the petitioners were enlarged on bail in connection with Ramnagar Police Station Case No. 52/2020. On filing

of the charge-sheet, the petitioners were entitled to get a notice from the court of the learned Magistrate requiring them to appear before the Court to face trial. It is needless to say that if a person is released on bail during investigation, he is not required to appear before the learned Magistrate till he gets notice after filing of the charge-sheet by the Investigating Officer. It is the duty of the Court of the learned Magistrate to issue notice upon the accused persons who are on bail to appear and in pursuance of such notice, if the accused persons fail to appear, only then warrant of arrest may be issued against them. Therefore, the impugned order dated 7th April, 2022 is illegal on the face of the order.

For the reasons stated above, the impugned order dated 7th April, 2022 is set aside. The petitioners are directed to appear before the Court below by 15th January, 2023. The learned Additional Chief Judicial Magistrate, Diamond Harbour is directed to pass an order enlarging the accused persons to remain on same bail.

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

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 32.