

26.12.2022

ct 5

sl no. 4

CRR 4780 of 2022

In Re : An application under section 482 of the Code of Criminal Procedure .

In Re : Sk. Nasrul @ Sk. Nasurllah & Ors.

..... petitioners

Mr. Subrata Bhattacharya

..... for the petitioners

Mr. Swapan Banerjee, P.P. In Charge,
Mr. Suman De,
Mr. Pratick Bose

..... for the State

The petitioners are directed to serve a copy of the revisional application upon Mr. Swapan Banerjee, learned advocate who usually appears on behalf of the State and he is requested to appear in this matter. His appointment may be regularized by the concerned authority.

This revisional application is directed against the order dated 28.9.2022 passed by the Learned Additional Sessions Judge, 2nd Court Durgapur, Paschim Bardhaman in connection with Sessions Sessions Cas No. 162 of the 2018 in G.R. No.845 of the 2018 arising out of Kanksa Police Station Case no.184 of 2018 dated 14.6.2018 under Section 302/120B/34 of the IPC 1860.

Learned Judge by order dated 28.9.2022 was pleased to issue warrant of arrest against the petitioners on the ground of absence on the date fixed for trial.

Learned advocate for the petitioners draws attention to the order sheet and submits that the petitioners have committed

default on one particular date due to mis-communication with the learned advocate and the fact that the Court was vacant. Learned advocate for the petitioner submits that as the petitioners were present on other dates and absent by petition on some dates and absent without steps only on one date petitioners be granted liberty to appear.

Learned advocate for the State opposes the prayer of the petitioners and submits that the petitioners were supposed to appear on that date fixed in terms of the condition of bail and as they were absent, the warrant of arrest was rightly issued.

Upon hearing the learned advocates and considering the facts of the case and materials on record, this court is of the view that as the petitioners were present before the learned Court below personally on most of the dates and on some occasion they were absent by petition and committed default only one day in the interest of justice, the petitioners should be granted reasonable opportunity to appear before the Court on the self-same bail condition granted earlier.

Thus, revisional application stands disposed of.

The petitioners are granted opportunity to surrender before the learned Court below within three weeks. In the event the petitioners surrender within three weeks they will be entitled to remain in the self-same bail condition as was imposed earlier. During this three weeks period the warrant of arrests shall remain stayed. In the event the petitioners fail to surrender within three weeks this order shall stand recalled and the revisional application

will stands dismissed and the learned Trial Court will be entitled to proceed in accordance with law.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Biswaroop Chowdhury, J.)