

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
In The Circuit Bench at Jalpaiguri
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

C.R.R. 71 of 2022

Sahidul Haque@ Saidul
-vs-
State of West Bengal

For the Petitioner : Mr. Ranadeb Sengupta
Mr. Pronojit Roy

For the State : Mr. Imran Ali
Ms. Rita Dutta

Heard on : 27.04.2022

Judgment on : 27.04.2022

Jay Sengupta, J.:

This is an application challenging the issuance of warrant of arrest, proclamation and attachment against the petitioner.

Let a copy of this application be served upon Mr. Imran Ali and Ms. Rita Dutta, learned counsels, who are present in Court today and who ordinarily appear on behalf of the State. Their engagement may be regularised in due course by the competent authority of the State.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an accused in this case. The present case was started under Sections 20 and 29 of the NDPS Act on 14.03.2019. The investigating agency submitted a charge sheet on 05.09.2019 against three persons including the present petitioner. A warrant of arrest was issued against the present petitioner on 29.11.2019. On 20.10.2020, the learned trial court issued warrant of arrest, proclamation and attachment against the absconding accused. The same has remained pending since then. First, no non-execution report was filed on 20.10.2020 that could have warranted issuance of proclamation. Secondly, an order of attachment and proclamation cannot be issued together on the first day. There is a process which has to be exhausted in respect of issuance of proclamation and only after that an attachment order can be issued. In the interest of justice, the process issued against the petitioner should be set aside.

Learned counsel appearing on behalf of the State submits

as follows. It is true that an attachment order ought not to have been issued on the same day on which proclamation was issued for the first time. However, warrant of arrest has remained pending against the petitioner for a long time. A report was filed by the Officer-in-Charge as per the direction passed by the learned trial court on the last occasion. After perusal of the same, warrant of arrest and proclamation were issued along with an order of attachment. Even if the order of attachment is found to be bad in law, the warrant of arrest and the order of proclamation would remain.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner and the State and have perused the revision petition.

It appears that the warrant of arrest was pending against the present petitioner since 05.09.2019. On 14.10.2020 the Officer-in-Charge of Sahebgaj Police Station was directed to submit a report or to catch the accused. On the next day i.e. on 20.10.2020 a report was filed in this regard by the Officer-in-Charge and the same was perused by the learned trial court. Only after this, the learned trial court proceeded to issue warrant of arrest, proclamation and attachment against the present petitioner.

Therefore, I do not find any illegality in the order so far as

the issuance of warrant of arrest and proclamation are concerned.

However, it is true that an order of attachment cannot be issued on the first day on which an order of proclamation was being issued because there is a procedure that is to be exhausted first in respect of the issuance of proclamation and only then can an attachment order be passed.

In view of the above, I set aside the order of attachment issued against the present petitioner.

However, there is no illegality in the order of the learned trial court issuing warrant of arrest and proclamation against the petitioner. Accordingly, the same are retained.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

