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C.R.R. 891 of 2023

**In the matter of : Sabnam Mostari Khatun @
Shabnam Mustary Khatun & ors.
.... Petitioners**

Mr. Soumyajit Das Mahapatra

Mr. Somnath Adhikary

... for the petitioners

Farakka Police Station Case No.89 of 2021 dated 27th April, 2021 under Sections 341/324/325/307/34 of the Indian Penal Code corresponding to G.R. Case No. 706 of 2021 presently pending before the learned Additional Chief Judicial Magistrate, Jangipur, Murshidabad is impugned in the instant revision.

An order dated 28th September, 2022 passed by the learned Additional Chief Judicial Magistrate, Jangipur, Murshidabad in the above criminal case issuing warrant of arrest against the petitioners for their non-appearance on the previous date of the case is assailed in the instant revision.

Learned Advocate for the petitioners submits that the petitioner no.1 and one Aliul Islam are practising advocates attached to Chanchal Bar Association and Jangipur Bar Association, respectively. Over an incident dated 22nd March, 2021 on the basis of a written complaint submitted by the father of the petitioner no.1, Chanchal Police Station Case No.213 of 2021 under Sections 448/326/307/376/511 of the Indian Penal Code was registered. Subsequently, one Gadu

Sk., father of the said Aliul Islam filed an application under Section 156(3) of the Code of Criminal Procedure in the court of the learned Additional Chief Judicial Magistrate, Jangipur, alleging inter alia that on 22nd March, 2021 at about 6.20 p.m. said Aliul Islam was severely assaulted with the intention to commit him murder by all the petitioners. The date was fixed on 28th September, 2022 for appearance of the accused persons and supply of the copy under Section 207 of the Code of Criminal Procedure. On that date, the accused persons were absent without step. Therefore, the Trial Court issued warrant of arrest fixing 20th December, 2022. On 29th November, 2022 all the accused persons surrendered before the Trial Court and prayed for bail. Subsequently, the said bail petition was not pressed. The said order is impugned in the instant revision.

On perusal of the impugned order dated 29th November, 2022, it appears that immediately on surrender by the accused persons it was the duty of the learned Additional Chief Judicial Magistrate, Jangipur to take the accused persons in judicial custody. There is absolutely no order with regard to taking the accused persons/petitioners in judicial custody. It further appears that an application for bail was filed before the learned Additional Chief Judicial Magistrate, Jangipur. However, he did not dispose of the said application by passing any order. Even if the said application is not pressed the learned Magistrate was required to pass an order

that the application for bail was rejected being not pressed and the accused persons were required to be sent to correctional home in compliance to warrant of arrest.

I fail to understand the head and tail of the impugned orders dated 28th September, 2022 and 29th November, 2022.

In view of such circumstances, both the orders are set aside.

The instant revision is disposed of directing the petitioners to surrender before the Trial Court within a fortnight from the date of communication of this order. On such voluntary surrender, the learned Additional Chief Judicial Magistrate shall consider the application for bail of the petitioners favourably. If the petitioners are not assisted by any advocate, the learned Additional Chief Judicial Magistrate shall entrust an advocate on behalf of the petitioners from the panel of the Sub-Divisional Legal Services Authority, Jangipur.

With the above direction, the instant revision is disposed of.

(Bibek Chaudhuri, J.)