

05-01-2023
Subha
Item no.42
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1875 of 2021

Sabuj Gazi
-versus-
The State of West Bengal

Re : An application under Section 482 of the Code of Criminal Procedure read with Article 227 of the Constitution of India.

Ms. Jeenia Rudra

....for the petitioner.

Mr. Prasun Kumar Datta
Mr. Subrato Roy

.....for the State.

The order dated 12.08.2021 passed by the learned Additional District and Sessions Judge, Fast Track, 4th Court, Barasat, North 24 Parganas primarily endorses the contention advanced by the learned advocate appearing for the petitioner.

The prayer of the petitioner in an application under Section 227 of the Code of Criminal Procedure was for discharging the petitioner.

The learned trial court without entering into the applicability of the particular section concerned observed that the petitioner happens to be a Bangladeshi National who without any valid document entered into India and was apprehended by the police Authorities.

Consequently, the provisions of the Foreigners Act are attracted in this case. As to which provision would applicable is a

discretion of the court at the stage of the consideration of charge.

It is also correct that a particular section may not apply while charging the petitioner but an alternate section from the facts of the case may apply and the learned trial court obviously is not bound by the opinion arrived at by the Investigating Agency.

Accordingly, let the charge be framed on the next date so fixed or within a month thereafter. The petitioner would be at liberty to approach this court in case the contention so advanced by the petitioner is not dealt with by the learned trial court at that stage.

With the aforesaid observations, the present revisional application being CRR **1875 of 2021** is **disposed of**.

. Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]