

10.08.2023

Item No.5
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 2717 of 2023

In the matter of : **Golam Rasul @ Golam Rasul Sk.**
@ Md. Golam Rasul & Anr. ... Petitioners.

Mr. Ranadeb Sengupta,
Mr. Sachit Talukdar ... For the Petitioners.

Mr. S. G. Mukherjee, Ld. P.P.,
Md. Anwar Hossain,
Ms. Sreyashee Biswas ... For the State.

Report dated 08.08.2023 submitted by Mr. Sur, learned
advocate appearing for the State be kept on record.

Learned advocate for the State drew the attention of the
Court to different dates and the G.D. entries recorded when
the police authorities intended to execute the warrant of
arrest issued by the court. To that effect, the G.D. entry
numbers have been reflected in the report so submitted.

Learned advocate appearing for the petitioners submits
that the petitioners have been implicated in the instant case
because of political rivalry and they were not named in the
FIR, but subsequently their names were incorporated in the
charge-sheet and they have been victimised because of their
political alienation. Learned advocate drew the attention of
the Court to the impugned order wherein the learned
Magistrate was pleased to issue warrant, proclamation and
attachment by a single order on 20.05.2023 fixing
21.06.2023 for execution return.

The G.D. entries, which have been incorporated in the
report on different dates from 03.05.2023 till date, reflect that

the petitioners were not available at their known address. The plea of the petitioners are that they came to know regarding such proclamation and attachment pending when their prayer for anticipatory bail had to be withdrawn because of the submissions advanced by the State.

I have considered the submissions particularly the emphasis of the learned advocates with regard to the nature of process being issued by the learned Additional Chief Judicial Magistrate, Lalbagh, Murshidabad. I find that the order, which was passed relating to proclamation and attachment, has already been executed. Once the order has already been executed, at this stage in a case under Section 302 of the Indian Penal Code to recall the order in a case where accused in spite of best efforts of the police authorities could not be traced, would simply be encouraging a person who intends to evade the process of law particularly, in a case under Section 302 of the Indian Penal Code.

Having regard to the aforesaid, I am not inclined to interfere with the prayer advanced by the petitioners. However, if the petitioners approach the court for anticipatory bail, it would be for the court, adjudicating the issue of anticipatory bail, to decide in respect of the conduct of the petitioners, the issuance of the proclamation and attachment and in the background of the merits whether the reliefs sought for by the petitioners can be granted. This Court refrains exercising its powers under Section 401 read with Section 482 of the Code of Criminal Procedure in respect of the prayers so advanced by the petitioners.

Accordingly, the revisional application being CRR 2717 of 2023 is dismissed.

Pending connected application, if any, is consequently disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)