

10.08.2023

Item No.4
Ct.No.34
dc.

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

C.R.R. 2770 of 2023

In the matter of : **Md. Asrafuddoullah** ... Petitioner.

Mr. Pratip Kumar Chatterjee ... For the Petitioner.

Mr. Madhusudan Sur,
Mr. Dipankar Paramanick ... 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 petitioner submits that the petitioner has been implicated in the instant case because of political rivalry and he was not named in the FIR, but subsequently his name was incorporated in the charge-sheet and he has been victimised because of his 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 petitioner was not available at his known address. The plea of the petitioner that he came to know regarding such

proclamation and attachment pending when his prayer for anticipatory bail had to be withdrawn because of the submissions advanced by the State.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 petitioner. However, if the petitioner approaches 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 petitioner, the issuance of the proclamation and attachment and in the background of the merits whether the reliefs sought for by the petitioner 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 petitioner.

Accordingly, the revisional application being CRR 2770 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.)