

26.10.2023
Item No.1
Ct. No.5
Vacation Bench
CHC/S. De

C.R.R.4384 of 2023

In the matter of : Newton Kha @ Khan & anr.
... Petitioners

Mr. Sekhar Kumar Basu, Sr. Advocate
Mr. Kushal Kumar Mukherjee,
Mr. Diptangshu Basu
... for the petitioners

Mr. Arijit Ganguly,
Mr. Bitasok Banerjee
... for the State

Report submitted by Mr. Bitasok Banerjee, learned advocate
appearing for the State be kept with the records.

Petitioners have challenged the order dated 25.08.2023
herein.

Records of the case reflect that Warrant of Arrest was issued
against 18 accused persons on 18th of August, 2023.
Subsequently, charge-sheet was submitted on 25th of August,
2023 and the learned Court fixed 8th of September, 2023 for
execution return of Warrant of Arrest. A non-execution report was
filed on 25th August, 2023 and the learned Court fixed 8.9.2023
for execution return of Warrant of Proclamation and Attachment.

Learned Senior Advocate, Mr. Basu challenges the very
foundation of issuance of proclamation and attachment order, as
the statutory period prescribed under Section 82 of the Code of
Criminal Procedure were not adhered.

Having considered the prescribed period of thirty days required under the statute so far as the issuance of Proclamation is concerned the same is interfered with.

However having regard to the gravity of the offence, particularly the offence being under Section 302 of the Indian Penal Code (without assessing the complicity of the present petitioners) the execution of the proclamation and attachment order so issued by the learned Magistrate on 27th of August 2023 is stayed till 15th of December, 2023.

The petitioners would be at liberty to avail and exhaust their remedy under the law within the said period of time.

Learned A.C.J.M., Kandi, will take into account any changed circumstances by 15th of December, 2023 and thereafter revive the order dated 25th August, 2023 by adhering to the provisions of Section 82 of the Criminal Procedure Code.

With the aforesaid observation, C.R.R.4384 of 2023 is disposed of.

All pending applications, if any, are consequently disposed of.

(Tirthankar Ghosh, J.)