

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

C.R.R. 4454 of 2022

***Basu Ghosh @ Basudeb Ghosh @ Basu
Vs.
The State of West Bengal***

**For the petitioner : Mr. Arnab Chatterjee, Adv.
Ms. Poulami Bose, Adv.**

For the State : Smt. Sreeparna Das, Adv.

Heard on : 01.03.2023.

Judgment On : 01.03.2023.

Bibek Chaudhuri, J.

Though the petitioner/accused in NDPS Case No.34 of 2020 pending before the learned Judge, Special Court under the NDPS Act at Krishnanagar, Nadia under Section 21(c) / 29 of the Narcotic Drugs and Psychotropic Substances Act has prayed for quashing of the proceeding, the learned Advocate for the petitioner has not pressed such prayer. Learned Advocate for the petitioner submits that by an order dated 9th June, 2022, the case against the accused/petitioner Basu Ghosh @ Basudeb Ghosh @ Basu was filed for the present by the learned Trial Judge. Prior to that vide order dated 30th April, 2022, the learned Trial Judge issued W.P. & A against the said Basu

Ghosh without considering the fact that non-execution report of warrant of arrest was received by the learned Trial Judge and composite order under Sections 82 and 83 of the Code of Criminal Procedure cannot be passed.

Be that as it may, it is submitted by the learned Advocate for the petitioner that the petitioner was in custody in connection with NDPS Case No.82 of 2020. The said case was disposed of vide judgment and order of acquittal dated 10th August, 2022. Only after 10th August, 2022, the accused/petitioner came out from judicial custody. The prosecution did not mention in the Trial Court on 30th April, 2022 and on 11th July, 2022 that accused Basudeb Ghosh was in custody. No prayer was made for issuing warrant showing him arrested in connection with this case at the relevant point of time. Now after being released, the accused/petitioner finds that NDPS Case No.34 of 2020 is also pending against him.

On perusal of the averment made in the instant revision and having heard the learned Advocate for the petitioner, this Court is of the view that the instant revision can be disposed of here and now with the assistance of the learned Advocate on behalf of the State.

Ms. Sreeparna Das, learned Advocate be requested to assist this Court on behalf of the State as the Public Prosecutor-in-Charge.

Appointment of Ms. Sreeparna Das, learned Advocate be regularized by the learned Legal Remembrancer, Government of West Bengal.

The petitioner is directed to serve a copy of the application in course of this day.

It is submitted by the learned Public Prosecutor-in-Charge that the orders dated 30th April, 2022 and 9th June, 2022 may be recalled and the petitioner may be given an opportunity to surrender before the Trial Court. On his surrender, the learned Trial Judge shall consider as to whether he should be released on bail or not in accordance with law.

In view of such submission made by the learned Public Prosecutor-in-Charge, the instant revision is disposed of recalling the order dated 30th April, 2022 and 9th June, 2022.

The petitioner is at liberty to surrender or take appropriate step before the Trial Court within 14 days from the date of this order.

Parties are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.26.
D/L.**