

20.02.2024
Serial no. 54
[G.S.D]

CRR 369 of 2024

In the matter of : Ashok Kumar Banerjee & Ashok Banerjee & Anr.

... .. Petitioners

Mr. J. Ganguly

... for the petitioner

Mr. Debasish Roy
Mr. Arijit Ganguly
Ms. Rituparna Ghosh

... for the State

Ld. advocate for the petitioner as well as for the State is present.

The petitioner has restricted his submissions in respect of the appearance before the Id. Special Court, Burdwan in connection with Special (SC) Case No. 16 of 2023 arising out of Katwa P.S. Case No. 350 of 2023.

Mr. Ganguly, Id. advocate appearing for the petitioner, submits that the petitioner is aged about 76 years and he has been falsely implicated in connection with the instant case. The petitioner has cooperated with the investigating agency in course of the investigation.

However, it has been submitted that the investigation has already been completed and charge-sheet has been submitted before the Id. jurisdictional court.

Having considered the fact that the case is not only restricted to the provisions of IPC but also under the

provisions of SC &ST (POA) Act, 1989, I direct that if the petitioner surrenders within a period of four weeks from date before the Id. jurisdictional court, in that case, the Id. trial court would issue notice upon the respective parties and fix a date for hearing.

On the date of filing of such application, the petitioner may not be present but, would be physically present on the date of hearing of the application.

The Id. trial court would take into consideration the age of the present petitioner and the fact that the investigation of the case has already been completed and the petitioner has cooperated with the investigating agency in course of the investigation.

The Id. trial court under such circumstances would take into account whether any detention of the petitioner is at all required under the changed circumstances.

The Id. trial court, if an application under section 205 of the cr.p.c. is filed with an undertaking by the Id. advocate that the petitioner would be available on each and every date when the matter is called, in that case, the Id. Special Court will not insist on the day to day physical appearance of the present petitioner in course of the trial until and unless the Special Court feels that without physical appearance of the present petitioner trial cannot proceed.

With the aforesaid observations, CRR 369 of the 2024 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

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

(Tirthankar Ghosh, J.)