

CRR 1979 of 2024
CRAN 1 of 2024

Sujit Rajowar
Vs.
The State of West Bengal & anr.

Adv. Sabir Ahmed,
Adv. Abdur Rakib,
Adv. Dhiman Banerjee,
... for the petitioner/applicant.
Adv. Debasish Roy, Ld. P.P.,
Adv. Anand Keshri,
Adv. Santanu Talukdar,
...for the State.

Affidavit of service filed on behalf of the petitioner is taken on record.

The application, being CRAN 1 of 2024 under Section 5 of the Limitation Act is not in the file. A copy of the same produced by the petitioner is treated as original and taken on record.

The petitioner seeks condonation of delay of 213 days in filing the revisional application.

Heard learned counsels for the parties.

Good grounds being shown, delay is condoned.

CRAN 1 of 2024 is allowed.

The petitioner seeks stay of warrant of arrest issued against him by the learned Judge, Special Court under POCSO Act, Krishnanagar, Nadia in case no. 27 of 2021 pending before him. Learned counsel for the petitioner submits that the petitioner was initially cited as a witness in the proceeding before the learned trial Court and examined as PW 8. Upon examination, the petitioner turned hostile. Evidence was

concluded and argument heard in full. A date was fixed for delivery of judgment. Later on, by an order passed on 7th October, 2023, learned trial Court observed as follows:

“Be that as it may be, the present position is that the ID which was created with the SIM card of said Sujit Rajwar for causing viral of obscene pictures of the victim girl of this case, should be an accused of this case in terms of Section 319 of the Cr. P.C. However, before arrayed him as an accused in this case, this Court desire to know his version over this report of the I.C. Cyber Crime P.S., Krishnanagar P.D. Accordingly, issue notice directing the said Sujit Rajwar, son of Dhananjoy Rawar, Vill. & P.O. Char-chuadanaga, Char-baliadanga, Dist. Nadia to appear before this Court personally on 30/11/2023 and to file his version regarding the report of the I.C. Cyber Crime P.S., Krishnanagar P.D.”

Warrant of arrest was issued since the petitioner sought adjournment before the learned trial Court and had gone to Mumbai for his personal cause ignoring the direction of the Court.

Learned counsel for the petitioner submits that Section 319 of the Code cannot be invoked on the basis of the report submitted by the I.C. Cyber Crime Police Station which was called for by the Court.

Since the learned trial Court, vide an order passed on 7th October, 2023 granted an opportunity to the petitioner to appear before the Court and make his submission with regard to the report of the I.C. Cyber Crime Branch, this Court is of

the view that the petitioner needs to be granted a right of audience before the learned trial Court before the learned trial Court passes an order in terms of Section 319 of the Code.

In view of the above, the order passed on 8th April, 2024 directing issuance of warrant of arrest against the petitioner be stayed till disposal of the issue by the learned trial Court with regard to Section 319 of the Code of Criminal Procedure.

The petitioner is directed to appear before the learned trial Court in terms of the order dated 7th October, 2023 and make his submission in terms thereof within two weeks from date. The learned trial Court shall afford an opportunity of hearing to the petitioner in connection with the said issue and take a reasoned decision in terms of Section 319 of the Code.

A copy of the report of the I.C. Cyber Crime Police Station, Krishnanagar P.D. be made over to the petitioner by the prosecution.

With the aforesaid observations and directions the application, being CRR 1979 of 2024 is disposed of.

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

(Suvra Ghosh, J.)