

11.06.2024
rc/ct.no.34
Item No.17

CRR No. 2099 of 2024

In the matter of : Aparna Neogi & Anr. . ..petitioners

Mr. Navnil De	
Mr. Neil Basu	
Mr. Subhrojit Dey	
Mr. Sankha Biswas	...for the petitioners
Mr. Sujan Chatterjee	...for the State

Affidavit of service filed in Court is taken on record.

Heard learned counsel for the parties.

Petitioners have assailed an order passed by the learned Additional Chief Judicial Magistrate, Diamond Harbour, South 24 Parganas on October 13, 2022 issuing warrant of arrest against them, before the learned Additional District and Sessions Judge, Fast Track 3rd Court, Diamond Harbour. Their prayer having been turned down by the learned Additional District and Sessions Judge, Fast Track 3rd Court, Diamond Harbour, the petitioners have approached this Court in the present revisional application praying for setting aside the order dated October 13, 2022 passed by the learned Trial Court. The petitioners were granted anticipatory bail by the learned Sessions Judge In-Charge, South 24-Parganas, Alipore on November 18, 2021 They were directed to appear before the learned Trial Court on September 30, 2022. The Investigating Officer filed an application before the Trial Court on September 13, 2022 seeking a direction upon the sureties to

produce the accused persons/petitioners before the Investigating Officer for interrogation. By order impugned, the learned Trial Court has issued warrant of arrest against the petitioners on the ground that the petitioners/accused persons did not appear before the learned Court on that date.

It cannot be ascertained whether copy of the order dated September 13, 2022 was served upon the petitioners by the sureties. In any event, the petitioners were supposed to appear before the Investigating Officer on September 20, 2022 and not before the Court on October 13, 2022, more so, since they were directed to appear before the Court on September 30, 2022. Strangely, no order appears to have been passed by the learned Trial Court on September 30, 2022.

Since there was no direction upon the petitioners to appear before the Court on October 13, 2022, warrant of arrest could not have been issued against them for non appearance before the Court on that date.

In view of the above, this Court is inclined to hold that the order passed by the learned Additional Chief Judicial Magistrate, Diamond Harbour on October 13, 2022 directing issuance of warrant of arrest against the petitioners/accused persons need to be set aside/quashed.

In the result the revisional application succeeds.

The order passed by the learned Additional Chief Judicial Magistrate, Diamond Harbour, South 24 Parganas on October 13, 2022 directing issuance of warrant of arrest against the

petitioners is set aside/quashed. However, the petitioners are directed to appear before the Investing Officer and cooperate with the investigation of the case as and when called for.

The petitioners are further directed to appear before the learned Trial Court within four weeks from date.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)