

October 4, 2024

34 ARDR

CRR 4314 of 2024

UBS Switzerland AG

Vs.

The State of West Bengal & anr.

Adv. Sanjay Banerjee,
Adv. Srinivas Chatti,
Adv. Labony Roy,

,... for the petitioner.

Adv. Bitashok Banerjee,
Adv. Swastika Chowdhury,

...for the OP.2.

Certified copy of the order impugned filed by the petitioner is taken on record.

The petitioner has assailed the order passed by the learned Judge, Special Court under the NDPS Act, 12th Court, Alipore on 12th August, 2024 in Criminal Motion no. 213 of 2024.

Learned counsel for the petitioner submits that an order passed by the learned Chief Judicial Magistrate, Alipore in connection with West Post Police Station case no. 88 of 2028 was carried in criminal motion by the opposite parties before the learned Sessions Judge, Alipore, South 24 Parganas, who, in turn, transferred the matter to the learned Additional District Judge, 12th Court, Alipore for disposal. By an order passed on 27th June, 2024, the learned Special Court directed issuance of notice upon the present petitioner through proper channel in terms of Section 105 of the Code of Criminal Procedure. By a subsequent order dated 12th August, 2024, learned Court has held that since the learned counsel was representing this petitioner before the learned Chief Judicial Magistrate and was also found to be present before the learned Court, notice under Section 105 of the Code be dispensed with.

Learned counsel submits that unless a formal notice under Section 105 of the Code is served upon the petitioner, the petitioner shall not be in a position to authorise learned counsel for representing the Bank before the learned Special Court. The Bank has issued vakalatnama in favour of the learned counsel for representing them before the learned Chief Judicial Magistrate and not before the learned Judge, Special Court.

In view of the above and in order to enable the petitioner to participate in the proceeding before the learned Judge, Special Court, notice under Section 105 of the Code ought to be issued upon the Bank.

The order impugned dated 12th August, 2024 is set aside/quashed.

Notice be issued upon the defacto complainant (petitioner herein) under Section 105 of the Code of Criminal Procedure fixing 10th day of December, 2024 for service return, appearance of the complainant (petitioner herein) and necessary order by the learned Special Court.

With the above direction, the revisional application, being CRR 4314 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.

On prayer of the petitioner, liberty is granted to communicate gist of the order to the learned Special Court.

(Suvra Ghosh, J.)