

26.11.2024
rc/ct.no.34
Item No.152

CRR No.4898 of 2024

**In the matter of : Pawan Kumar Agrawal @ Pawan Kumar
Agarwal**

.....Petitioner

Mr. Ayan Bhattacharjee
Mr. Anand Kesri
Mr. Arindam Chandra
Mr. Atish Ghosh
Ms. Antara Dey

...for the Petitioner

The petitioner is aggrieved by the order passed by the learned Judge, 2nd Special Court, Calcutta on September 30, 2024 in Criminal Case No. 18 of 2024 directing issuance of warrant of arrest against the petitioner.

Learned counsel for the petitioner takes this Court to the complaint filed by the opposite party against the petitioner and others seeking issuance of summons against all the accused persons including the petitioner. In response thereto warrant of arrest has been issued by the learned Court by the order impugned. The other petitioners approached this Court in WPA No. 26474 of 2024 challenging the said order and by an order passed on October 28, 2024 a coordinate Bench of this Court set aside warrant of arrest and directed the petitioners therein to appear before the learned Special Court on a particular date. The present petitioner was not one of the petitioners in the writ petition. Learned counsel has placed reliance on the authority in

Tarsem Lal Vs. Directorate of Enforcement, Jalandhar Zonal

Office reported in **(2024) 7 Supreme Court Cases 61** wherein the Hon'ble Supreme Court has insisted on issuance of summons upon the accused and not warrant at the first instance. The Hon'ble Court has held that if the accused appears before the Special Court pursuant to the summons, he shall be treated as if he is in custody and may be directed to furnish bond in terms of Section 88 of the Code of Criminal Procedure.

In the present case, summons was not issued upon the petitioner at all and the warrant of arrest was directly issued.

Learned counsel for the petitioner submits that the petitioner shall appear before the learned Trial Court within 7 days from date and submit bond under Section 88 of the Code.

In view of the above, the warrant of arrest issued against the petitioner vide an order passed on September 30, 2024 be stayed till December 10, 2024. The bond furnished by the petitioner under Section 88 of the Code shall be accepted by the learned Trial Court in accordance with law.

In the event the petitioner fails to appear before the learned Special Court within the stipulated time frame, the learned Trial Court shall be at liberty to take necessary steps in accordance with law.

Since nothing further remains to be adjudicated in the present application, the application being CRR No. 4898 of 2024 is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Suvra Ghosh,J)