

CRR 1010 of 2025

In the matter of: Piyush Kumar Ojha & Ors.

....Petitioners.

Ms. Rituparna De Ghosh

Ms. Jyoti Singh

Mr. Souryadeep Ghosh

....for the petitioners

Mr. Shiladitya Banerjee

Mr. Prakash Mishra

....for the State

Mr. Rahul Karmakar

Mr. D. Upadhyay

Ms. Munmun Mazumder

Mr. Muhammad Obaid

....for the OP2

Learned counsel appearing on behalf of the petitioners submits as follows. The de facto complainant falsely implicated all of the in-laws family as accused in this case, including those who were staying at other places like in Assam and Bihar. All the accused were granted bail. However, the case was not handled properly by the learned counsels who were dealing with the matter at that time. It was alleged that the lawyer did not appear and his intern might have appeared on the date on which bail was granted. However, when the bail was granted the State was represented and the case diary was produced. Subsequently, an application for cancellation of bail was moved alleging the fact that an intern had moved the application and also on the ground that there was a miss-statement that notices under Section 41A were not served upon the accused. It later transpired that such notice was not served only upon some of the accused. In any event, the petitioners should not suffer for the fault of their

learned advocate. The petitioners are not pressing the prayer for quashing at present and are praying for stay of the warrant of arrest issued so they can surrender before the learned trial court and pray for bail.

Learned counsel appearing on behalf of the private opposite party strongly opposes the prayer for stay of warrant of arrest. He submits that the bail was cancelled not only on the ground that an intern had moved the application, but also on the ground that there was miss-statement made in the affidavit. Furthermore, even vakalatnama was not filed on behalf of all the accused.

Learned counsel appearing on behalf of the State relies on the case diary and submits as follows. There is no grievous injury present in the injury report. However, there were alleged miss-statements made in the affidavit.

It appears that a warrant has been issued against the petitioners. They had earlier obtained bail, albeit, in certain avoidable circumstances.

A bare perusal of the orders granting bail would make it clear that the State was represented on the particular day.

The accused appeared and obtained ad interim bail on the first occasion. It was record by the learned Magistrate that the accused did not comply with the direction of the investigating authority in respect of notice issued under Section 41A of the Code. But, the accused had filed an affidavit stating that they could not comply with the same as Investigating Officer did not co-operate. Thus, it does

not appear that there was a stand taken by the accused that no notice was served upon them.

Be that as it may, since a warrant of arrest has now been issued against the petitioner, let the same be kept in abeyance for a period of four weeks from this date and liberty is granted to the petitioners to surrender before the learned trial court and pray for bail.

In the event, the said prayer is made within four weeks from this date, the learned trial court shall consider the bail application in accordance with law.

With these observations, the revisional application is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)