

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

The Hon'ble **JUSTICE SUVRA GHOSH**

CRM (M) 1 of 2025

Central Bureau of Investigation

v/s.

Rajnikant Ojha

For the Petitioner:

Mr. Rajdeep Majumder, Ld. DSGI,
Mr. Amajit De, Ld. Spl. P.P.
Mr. Pritam Roy, Adv.
Ms. Aroshi Rathore, Adv.

For the Opposite Party:

Mr. Sounak Mondal, Adv.
Mr. Sreyash Kumar Singh, Adv.

Judgment delivered on:

10-04-2025

SUVRA GHOSH, J. :-

1. Affidavit of service and supplementary affidavit filed by the petitioner are taken on record.
2. The petitioner /CBI is aggrieved by the order passed by the learned Additional Chief Judicial Magistrate, Alipore, South (24) Parganas on 29th March, 2025 in R.C. no. 220 of 2023 E 0019 of CBI, EO II, New Delhi dated 21st July, 2023. By the said order, the learned Magistrate has rejected the prayer for transit remand of the accused/opposite party and granted interim bail to him.
3. Learned counsel for the petitioner submits that warrant of arrest was issued against the petitioner on 21st January, 2019 by the learned Chief Judicial Magistrate, District Sagar, Madhya Pradesh. The opposite party

was arrested in Kolkata on 29th March, 2025 on the strength of the said warrant. The memo of arrest discloses the penal sections under which the opposite party has been charged as well as reasons for arrest. Therefore notification of substance of warrant was made to the opposite party in compliance with section 75 of the Code of Criminal Procedure. The arrest memo was accompanied by the permanent warrant of arrest and the memo bears the signature of the father of the arrestee/opposite party. The arrest was made in compliance with the provisions of the Code of Criminal Procedure and should not have been faulted.

4. Referring to the prayer for bail of the opposite party, learned counsel for the petitioner has submitted that the opposite party has referred to the alleged offences in the petition which means that he was aware of the charges against him.
5. Learned counsel has placed reliance on the authorities in *Prabir Purkayastha v/s. State (NCT of Delhi)* reported in (2024) 8 Supreme Court Cases 254, *Bankey Behari Singh and others v/s. Emperor* reported in 1918 Supreme Court Cases OnLine Pat 157, and *Vihaan Kumar v/s. State of haryan and Another* reported in 2025 Supreme Court Cases OnLine SC 269 in support of his contention.
6. Opposing the prayer, learned counsel for the opposite party has submitted that grounds of arrest were not informed to him in terms of Article 22 of the Constitution of India and he was not in a position to defend himself. Also, the accused has been released on interim bail and shall appear before the concerned Court in terms of the direction of the learned Magistrate. The warrant of arrest being issued in violation of

Article 22 of the Constitution of India as well as section 75 of the Code of Criminal Procedure, the warrant is invalid in the eye of law and the opposite party has been rightly granted interim bail by the learned Magistrate.

7. It shall be useful to reproduce Article 22(1) of the Constitution of India and section 75 of the Code of Criminal Procedure.

“22. Protection against arrest and detention in certain cases.- (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.”

“75. Notification of substance of warrant.- The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.”

8. In the authority in *Prabir Purkayastha (supra)*, the Hon’ble Supreme Court has distinguished between “reasons for arrest” and “grounds of arrest”. Reasons for arrest in the arrest memo are purely formal parameters whereas grounds of arrest contain all such details in hand of the investigating officer which necessitates the arrest of the accused. The Hon’ble Supreme Court has held that absence of communication of grounds of arrest in writing to the accused, vitiates the arrest and is invalid in the eye of law. The Hon’ble Patna High Court, in the authority in *Bankey Behari Singh and others (supra)*, has stated that once the accused has the reasonable opportunity of knowing on what charge he is

being arrested and before which Court he is to appear and read the warrant himself, omission to explain to the accused the particulars of the warrant after showing him the warrant cannot invalidate the arrest. The other judgment of the Hon'ble Supreme Court in Vihaan Kumar (supra) deals with a situation when the person is arrested without a warrant and is not applicable in the fact situation of the present case.

9. At this juncture, it is pertinent to distinguish between a warrant of arrest which is a legal document issued by a Court of law authorizing enforcement of law to arrest on individual and a memo or arrest which is a formal internal communication used for conveying information.
10. The memo of arrest discloses the penal sections with which the opposite party is charged and as reasons for arrest, records that permanent warrant was issued by the concerned Court. Learned counsel for the petitioner has stated that the memo of arrest contains the substance of the warrant as well as reasons for arrest. But I am afraid the reasons for arrest cannot be restricted to "permanent warrant was issued by the Hon'ble CJM Court, Sagar, Madhya Pradesh dated 21.01.2019." As observed by the Hon'ble Supreme Court, the reasons for arrest should reflect the parameters viz. to prevent the accused person from committing any other offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; to prevent the arrested person from making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the investigating officer. These

reasons are absent in the memo of arrest. The warrant of arrest only refers to the penal sections and does not notify the substance of the warrant in terms of section 75/78(2) of the Code of Criminal Procedure to the person to be arrested. Even if it is held that the opposite party was given an opportunity to read the warrant of arrest, he was still not equipped with the knowledge of the substance thereof in order to defend himself since the warrant is bereft of such substance. The memo of arrest follows the warrant of arrest and in view of violation of the constitutional mandate in issuing the warrant of arrest, the memo of arrest which is devoid of the reasons and grounds of arrest cannot be said to be in accordance with law.

11. In the said backdrop, this court is inclined to hold that there is no illegality or irregularity in the order impugned that requires intervention of this Court.
12. Accordingly, the revisional application is dismissed.
13. The order dated 29th March 2025 passed by the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas in R.C. no. 220 of 2023 E 0019 of CBI, EO II, New Delhi dated 21st July, 2023 be affirmed.
14. The opposite party is directed to appear before the concerned Court in terms of the said order.
15. Urgent certified website copies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

(Suvra Ghosh, J)