

09.09.2025
Court No.237
Item. 21
(Sandip)

CRR 3574 OF 2025

In the matter of: Ashok Roy & Ors.

.Petitioners.

Mr. Arnab Chatterjee,
Mr. Tanmoy Biswas,
Mr. A. Roy,
Mr. Avik Ghosh,
Ms. Antara Mukherjee

For the Petitioners.

Supplementary affidavit filed by the petitioners challenging an order dated July 25, 2025 whereby proclamation and attachment was issued against the petitioners.

It is submitted by the petitioners that proclamation and attachment was issued against the petitioners without following the procedure of law and the order issuing such proclamation and attachment is likely to be set aside.

From perusal of the materials-on-record placed before me, it transpires that the petitioners are accused in connection with Chopra Police Station Case No. 376 of 2018. The investigation of the case is ended in charge-sheet and was submitted on September 4, 2023 as against 57 accused persons including the present petitioners. The learned Additional Chief Judicial Magistrate, Islampur, Uttar Dinajpur on the basis of materials in the case diary took cognizance of the case. Thereafter it was noted that since the original record was lying with the Court of learned Court of Sessions Judge, the passing of order in such case was deferred until receipt of the original records. By an order dated May 18, 2025, the learned Magistrate noted that no warrant of arrest was issued against the

absconding accused persons at the time of submission of charge-sheet. By such order warrant of arrest was issued against all the accused persons including the present petitioners.

Thereafter, by the impugned order dated July 25, 2025, the record was put up at the behest of the investigating officer. The Investigating Officer submitted a prayer for issuance of proclamation and attachment against the 42 accused persons. Such prayer was allowed by the learned Magistrate and proclamation was issued accordingly.

From the impugned order it transpires that at the time of issuance of proclamation and attachment against the petitioners, no report with regard to execution of warrant of arrest issued against the petitioners was considered by the learned Court. Sections 82 and 83 of the Code of Criminal Procedure states that before issuing a proclamation and attachment, this Court must have a reason to believe that the person against whom the warrant was issued by it has absconded or concealed himself, so that such warrant cannot be executed. No such report regarding execution or non-execution of warrant of arrest issued against the petitioners was considered by the learned Magistrate at the time of passing the impugned order. There is also no substantive satisfaction noted in the impugned order that the Court was of the view that the accused persons were evading the execution of warrant.

For the aforesaid reasons, the impugned order is set aside.

Accordingly, C.R.R. 3574 of 2025 is allowed.

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

(Md. Shabbar Rashidi, J.)