

Item No.36
27.01.2025
GB
Ct. No. 34

C.R.R. 4937 of 2024

In Re : Md. Sumon Ali @ Suman Ali

..... petitioner

Mr. Anirban Mitra,
Mr. Santanu Chatterjee,
Mr. Rajendra Kumar Nandi,
Mr. Amit Roy,
Mr. Swarnak Sarkar

... for the Petitioner.

Mr. Mohinoor Rahaman,
Ms. Iqra Rahaman

... for the Opposite Party No.2.

Report submitted by the State is taken on record.

The petitioner is aggrieved by the order passed by the learned Chief Judicial Magistrate on July 8, 2024 in G.R. No.3681 of 2023 on the ground that the learned Magistrate has directed issuance of warrant of proclamation simply on the prayer of the Investigating Officer without recording his satisfaction with regard to non-execution of the warrant of arrest.

It appears that warrant of arrest was issued against the petitioner on February 20, 2024. An application was made by the Investigating Officer before the learned Magistrate on July 6, 2024, stating that the warrant could not be executed despite several raids conducted against him, on the basis of which warrant of proclamation was issued.

In the authority in ***Gauri Shankar Jain versus State of Bihar and another*** reported in ***1973 Cri LJ 137*** relied upon by the petitioner, the Hon'ble High Court at Patna observed that 'absconding' does not mean absence on one day, but it means remaining out for some days. The same principle has been laid down in the authority in ***M.S.R. Gundappa versus State of Karnataka and another*** in ***Criminal Petition No.413 of 1976*** referred to on behalf of the petitioner.

In the case in hand, the report/application submitted by the Investigating Officer demonstrates that the petitioner could not be arrested despite several raids conducted against him. Though the learned Magistrate has not specifically recorded satisfaction of such non-execution of warrant of arrest in the order impugned, it is clear from the said order that warrant of proclamation was issued by the learned Magistrate upon satisfaction that warrant of arrest could not be executed despite several attempts.

In view of the above, this Court is inclined to hold that there is no illegality or irregularity in the order impugned which requires intervention of this Court.

On prayer of the petitioner, liberty is granted to surrender before the learned Magistrate within two weeks from date. If the petitioner surrenders before the learned Magistrate within two weeks from date and files an application for bail, the learned Magistrate shall deal with the same in accordance with law.

In the event the petitioner fails to surrender before the learned Magistrate within the stipulated time frame, the learned Magistrate shall be at liberty to take necessary steps against him in accordance with law without further reference of this Court.

The warrant of proclamation be stayed till February 15, 2025.

Accordingly, the revisional application is dismissed.

Urgent certified xerox copy of this order, if applied for be given to the parties on priority basis.

(Suvra Ghosh, J.)