

11.03.2025
rc/ct.no.34
Item No.36

CRR No. 5402 of 2024

In the matter of : Abu Taher

.....Petitioner

Mr. Kallol Kumar Basu
Md. Jalaluddin
Jannatul Firdous

....for the petitioner

Mr. Debasish Roy, Ld.P.P.
Mr. Arijit Ganguly

...for the State

The petitioner has assailed the orders dated August 20, 2024 and November 25, 2024 passed by the learned Chief Judicial Magistrate, Howrah in G.R.Case No. 38 of 2022. By the order dated August 20, 2024 the learned Magistrate has directed issuance of warrant of arrest against the petitioner since he was absent before the Court on that date. The order dated November 25, 2024 records that an application has been filed by the petitioner for splitting up of the trial. The said application is yet to be considered by the learned Magistrate.

Since the application filed by the petitioner requesting splitting up of trial is pending before the learned Magistrate, the learned Magistrate is directed to consider and dispose of the application on the next date of hearing fixed before him and if the same is not possible due to unforeseen circumstances, within two weeks thereafter.

With regard to the order dated August 20, 2024 directing issuance of warrant of arrest against the petitioner, it appears that the petitioner was in custody in connection with G.R.Case

No. 38 of 2022 under Section 14 of the Foreigners Act since 15th July, 2022. The petitioner pleaded guilty in the said case and by an order passed on August 26, 2022, the learned Additional Chief Judicial Magistrate, Bongaon sentenced the petitioner to suffer simple imprisonment for three months and to pay fine of Rs.1000/-, in default to suffer simple imprisonment for 10 days. The learned Magistrate directed that the petitioner be pushed back to his own country after completion of his sentence if he was not wanted in any other case.

Learned counsel for the petitioner submits that since the petitioner was in custody with the said case on August 20, 2022, he was unable to appear before the learned Judicial Magistrate, Howrah in G.R.Case No. 38 of 2022. He has prayed for recalling the warrant of arrest issued against him.

Par contra, learned counsel for the State submits that if the warrant of arrest is recalled, the petitioner shall be released from custody and the concerned authority will not be in a position to push him back to his own country.

The order dated August 26, 2022 in G.R.Case No. 2344 of 2022 clearly indicates that the petitioner shall be pushed back to his own country if he is not wanted in any other case. The petitioner was on bail in connection with G.R.Case No. 28 of 2022.

Since the petitioner was unable to appear before the learned Chief Judicial Magistrate, Howrah in connection with the G.R.Case No. 38 of 2022 on August 20, 2024 since he was in custody in connection with the other case, the warrant of arrest

issued against the petitioner be quashed/set aside. The order dated August 20, 2024 in G.R.Case No. 38 of 2022 be modified to that extent.

Though the petitioner has suffered the entire period of sentence imposed upon him in connection with G.R.Case No. 2344 of 2022, he is an accused in G.R.Case No. 38 of 2022, meaning thereby, that his presence is required in the said case.

Since G.R.Case No. 2344 of 2022 is not before this Court, this Court does not wish to comment on the same.

CRR No. 5402 of 2024 is disposed of accordingly.

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

(Suvra Ghosh,J)