

18.08.2025
SL. 10
Court No. 3
SR

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction**

C.R.R. 399 of 2025

In re: An application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In re: Sajidul Mia @ Hongpetitioner.

Mr. Partha Pratim Sarkar
Mr. Sattayjit Paul
Ms. Shreya Sarkar

...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Sourav Ganguly ... for the State.

1. The subject matter of the challenge in the instant revisional application is the order No.30 dated 5th December, 2024 as passed by the learned Chief Judicial Magistrate, Cooch Behar in GR Case No.690 of 2024.
2. By the impugned order, the learned Trial Court issued WPA against the accused persons amongst whom one is before this Court in this criminal revision.
3. At the time of hearing, Mr. Sarkar, learned advocate appearing on behalf of the revisionist, at the very outset, draws attention of this Court to Section 84 of BNSS. It is submitted by Mr. Sarkar that on careful perusal of the Section 84 of BNSS, it would reveal that it is the legislative mandate that prior to issuance of WPA, the Court has to reason to believe that any person against whom warrant has been issued has either absconded or is concealing himself in order to avoid execution

of arrest. It is further submitted by Mr. Sarkar that unless the Court issuing the WPA achieved objective satisfaction regarding the above ingredients, the issuance of WPA is contrary to the law.

4. Mr. Chakraborty, learned Public Prosecutor appearing on behalf of the State, however, contends that the order impugned is perfectly justified and, therefore, there cannot be any occasion to interfere with the same.
5. On careful perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that for effective adjudication of the instant *lis*, Section 84 of BNSS is required to be looked into and the same is quoted hereinbelow: -

“Proclamation for person absconding: -

84. *(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.*

(2) The proclamation shall be published as follows: -

- (i) (a)*
- (b).....*
- (c).....*
- (ii).....*
- (3).....*
- (4).....*
- (5).....”*

6. Keeping in mind the aforementioned legislative provision, if I

look to the order impugned, it reveals that the learned Trial Court while issuing WPA against the accused person made no attempt to get himself satisfied objectively either on evidence or otherwise that the persons against whom warrant of arrest was/were issued were avoiding arrest either by way of absconsion or by concealing themselves.

7. Rather it appears from the impugned order that the learned Trial Court issued WPA on account of non-receipt of the execution report of the warrant of arrest against the accused persons, which in considered view of this Court is contrary to the provision of Section 84 of BNSS.
8. In view of such, this Court while disposing the instant revisional application set aside the impugned order No.30 dated 5th December, 2024 as well as all subsequent orders as passed in connection with issuance of WPA against the accused persons including in the name of the present revisionist.
9. With the aforementioned observations, CRR 399 of 2025 is disposed of.
10. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)