

CRR 190 of 2026

**Anil Nunia & Ors.
Vs.
The State of West Bengal & Anr.**

Mr. Ayan Basu	
Ms. Sk. Salim	
Mr. Sumit Routh	...for the petitioners
Mr. Kunal Ganguly	...for the O.P. no. 2
Mr. Suman De	
Mr. M.F.A. Begg	...for the State

Affidavit of service filed by the petitioners is taken on record.

The petitioners herein have assailed the order dated 10.11.2025 passed by the learned Chief Judicial Magistrate, Asansol, Paschim Bardhaman in connection with G.R. case no. 2321 of 2025 by which, the court below has issued simultaneous order of warrant of proclamation and warrant of attachment without assigning any reason.

Being aggrieved by the said order, learned counsel for the petitioners submits that the court below had issued warrant of proclamation and warrant of attachment without following the provisions laid down under Section 84 of the BNSS which mandates for providing 30 days between the date of publication of warrant of proclamation and issuance of warrant of attachment. The impugned order has been passed in violation of the provisions laid down under Section 84 and 85 of the BNSS, therefore is liable to be set aside.

Learned counsel for the petitioners in support of his contention, has relied upon a judgment of this court passed in CRR 1537 of 2020 dated 9th February, 2021 .

Learned counsel for the opposite party leaves the prayer made by the petitioners to the discretion of the court.

The solitary point raised is whether a court can issue both warrant of proclamation and warrant of attachment simultaneously without assigning reason.

In view of provision laid down in Section 84 read with Section 85 of BNSS, when accused does not appear in the court after issuance of warrant, the process of Section 84 of the BNSS can be issued only where there is a report that accused is absconding. After issuing proclamation under Section 84 of BNSS, court has to wait for thirty days from the date of publication of proclamation and then warrant of attachment under Section 85 of the BNSS can be issued. However, it the Court is of the view that the accused is about to dispose of the whole or any part of his property or is about to remove from the local jurisdiction of the court, the proclamation under Section 84 of BNSS and attachment under Section 85 of BNSS can be issued simultaneously.

In such a case, the Court must be satisfied on the basis of evidence before it that these circumstances exist and he has to mention these facts in the order for issuing processes under Section 84 and 85 of BNSS simultaneously. If these conditions are not met and reasons are not recorded for simultaneous issuance of proclamation and attachment, such warrant is illegal and procedurally incorrect.

Upon perusal of impugned order, it appears that Court below on perusal of non-execution report and considering prayer made by the Investigating officer for issuing proclamation and attachment warrant, had issued both the warrants simultaneously against the petitioners without assigning any reason whatsoever. Therefore, the order impugned to that extent is not sustainable in the eye of law.

In view of the aforesaid discussion, CRR 190 of 2026 is accordingly allowed. The impugned order dated 10.11.2025 and subsequent orders, which only pertains to the issuance of warrant of proclamation and warrant of attachment simultaneously, is hereby set aside.

However, this order will not preclude the court below to issue any such warrant in compliance with Section 84 and 85 of the BNSS in future, if situation demands.

Be it also mentioned that I have not interfered the order of the Trial court which pertains to the issuance of warrant against the present petitioners.

Urgent Photostat certified of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)