

05.
Ct.29

CRR 799 of 2026

06.04.2026
Bd.

Imrul Sk @ Imrul Hoque
-vs-
The State of West Bengal

Mr. Niladri Sekhar Ghosh
Mr. Arnab Chatterjee
Mr. Avik Ghosh
Ms. Debalina Roy ... for the petitioner

The petitioner herein has assailed the order dated 21st June, 2025, by which the court below had issued warrant of proclamation and warrant of attachment simultaneously against the present petitioner.

Being aggrieved by the aforesaid order, learned counsel for the petitioner submits that the court below had issued warrant of arrest against the petitioner on 24th November, 2024. Next date was fixed for execution report but without receipt of non-execution report, Court below by the impugned order dated 21.06.2025, on the prayer of the Investigating Officer, has mechanically issued warrant of arrest ad warrant of proclamation simultaneously.

Having considered the submissions made on behalf of the petitioner, it appears that learned trial court has not assigned any reason for simultaneous issuance of both warrant of proclamation and warrant of attachment simultaneously. It further appears that on that date, he had also not received any non execution report and merely on the basis of the prayer made on behalf of the Investigating Officer he has issued both warrant of proclamation and warrant of attachment simultaneously.

The order of proclamation under section 84 of BNSS and attachment order under section 85 are generally consecutive processes, not simultaneous. A Court cannot issue both at the same time unless it is satisfied by way of affidavit or evidence that the person is about to dispose of or remove his property.

Here the Court below without recording any satisfaction that the accused is actively disposing of or removing property has passed the impugned order. The Court before passing an order of proclamation must record its satisfaction that the person is absconding and deliberately avoiding execution of the warrant. Normally a warrant is issued first, followed by the proclamation if the accused is absconding and only then order of attachment can be passed strictly in accordance with section 84 read with section 85 of BNSS. If these safeguards are not followed, a simultaneous order is liable to be set aside.

Having considered the aforesaid facts and circumstances of the case, the instant application being CRR 799 of 2026 is hereby disposed of by setting aside the order dated 21.06.2025 by which the warrant of proclamation and warrant of attachment were issued simultaneously, as it has been passed without following the procedure laid down under section 84 and 85 of the BNSS. However, it is made clear that this order will not prevent the court below to issue warrant of proclamation/warrant of attachment in compliance with the provision laid down in section 84 and 85 of the BNSS if situation demands in future. This order will also have no effect upon the order relating to issuance of warrant against the petitioner vide order dated 24.11.2024.

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

(Dr. Ajoy Kumar Mukherjee, J.)