

06.04.2026

Sl. No.07.

M/L.

Mithun.

Ct.No.29.

CRR/1500/2026

Ejja Sk @ Ejajul Rahaman & Anr.

Vs.

The State of West Bengal

Mr. Arindam Jana,
Mr. Baibhav Roy,
Mr. Yuvraj Chatterjee

...for the petitioners

The petitioners herein are aggrieved with the order dated 08.04.2025 by which the Court below had simultaneously issued warrant of proclamation and warrant of attachment against the present petitioners.

Being aggrieved by the said order, learned Counsel for the petitioners Mr. Jana submits that warrant of arrest was initially issued against the petitioners but thereafter it appears that though no execution report was received in respect of the present petitioners, the Court below has issued warrant of proclamation and warrant of attachment simultaneously in violation of the provision laid down in Sections 84 and 85 of the BNSS.

Having heard learned Counsel for the petitioners it appears to me how many times this High Court will have to remind learned Courts that only in the circumstances mentioned in the proviso to sub-section (1) of Section 85 of BNSS, the Court is authorised to issue the order of proclamation and attachment simultaneously.

A proclamation under Section 84 BNSS can only be issued if a warrant of arrest was previously issued but could not be

executed. The Court must formally record about his satisfaction that the person has absconded or is concealing himself. The proclamation must give the person at least 30 days to appear. The proclamation must be read publicly, affixed to the residence and the Court house. Attachment procedure under Section 85 can generally only follow the proclamation, unless there is proof of intended removal or disposal of assets.

In the instant case Court below issued warrant of arrest against accused petitioner vide order dated 24.03.2025 fixing next date for execution report about warrant of arrest but on that next day, by the impugned order, Court below recorded that no report regarding execution of warrant of arrest was received but still in utter violation of provision laid down in Section 84 read with Section 85 of BNSS and without recording his satisfaction that the petitioner accused has absconded and/or concealed himself, and also without recording any emergent situation as mentioned in proviso to Section 85(1), he has simultaneously issued warrant of proclamation and warrant of attachment, which is palpably an illegal order.

In view of above, the impugned order dated 08.04.2025 is hereby set aside.

The instant application being CRR 1500 of 2026 is allowed.

However, this order will not preclude the Court below to issue warrant of proclamation/warrant of attachment against the petitioners in future, if situation demands but strictly in compliance with Section 84 read with Section 85 of the BNSS.

This order will also not affect issuance of warrant against the petitioners passed vide order dated 24.03.2025.

Registrar General will send a copy of this order to the Director, West Bengal Judicial Academy, who will appraise and will circulate the same to the concerned Presiding Officers.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)