

05.05.2026
Sl. No.11
Ct. No.237
S.A.

CRR 1082 of 2026

**Shibani Saha Dey @ Shibani Saha
-vs-
The State of West Bengal & Anr.**

Mr. Soumyajit Das Mahapatra
Ms. Priti Kar Bagchi
Ms. Madhurai Sinha
Ms. Upasana Banerjee

...for the petitioner

Mr. Debasish Roy
Mr. Suman De
Mr. Abhinaba Mukherjee

...for the State

The petitioner challenges an order dated January 5, 2026, whereby the Learned Special Judge, POCSO Court, Berhampore, Murshidabad, issued warrants of proclamation and attachment against the petitioner.

It appears that, in the course of the investigation, a notice was issued to the petitioner under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, directing him to appear before the Investigating Officer on March 8, 2025. In compliance with the said notice, the petitioner duly appeared before the investigating agency.

However, it further appears that, at the time of filing the charge-sheet dated April 25, 2025, the petitioner was shown as absconding, and a prayer for issuance of a warrant of arrest had been made before the Learned Judge on April 23, 2025. On the basis of such prayer, the Learned Special Judge issued a warrant of arrest against the petitioner on the same date.

As the said warrant could not be executed, the Learned Special Judge, by the order dated January 5, 2026, issued warrants of proclamation and attachment simultaneously against the petitioner.

This Court is of the view that, once the petitioner had appeared before the Investigating Officer in response to the notice issued under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, there was no justification for showing the petitioner as absconding in the charge-sheet, and the Learned Special Judge ought not to have issued any warrant of arrest against the petitioner.

This Court is further of the opinion that a simultaneous order of proclamation and attachment could not have been issued by the Learned Special Judge on January 5, 2026, unless the requirements under the first proviso to Section 85(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 had been satisfied. Ordinarily, an order of attachment should be issued only after the procedure relating to proclamation has been duly exhausted.

In that view of the matter, the order dated January 5, 2026 is set aside.

The Learned Judge shall, however, be at liberty to proceed with the matter afresh in accordance with law. The petitioner shall also be at liberty to take steps in accordance with law.

Accordingly, **CRR 1082 of 2026** stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)