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IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

C.R.A.(SB) 6 of 2022
With
CRAN 2 of 2022

Sheikh Sohel Rana
Versus
State of West Bengal

Mr. Gurbaksh Singh,
Mr. Bikash Singha.
...for the appellant/petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Sourav Ganguly,
Mr. Biswarup Roy.
...for the State.

In Re: CRAN 2 of 2022

Learned advocate appearing for the appellant/petitioner submits that the appellant/petitioner was never explained the consequences of pleading guilty before the trial court and, as such, the sentence so imposed by the learned trial court should be set aside. To that extent, learned counsel relies upon series of judgments that until and unless the consequences of pleading guilty are explained and the accused understand such consequences, then the said pleading of guilty is illegal warranting interference by this Court.

I have checked the lower court records which have been made available. Pursuant to earlier direction, I find that the learned trial court while exhausting the provisions of Sections 239/240 of the Code of Criminal Procedure in the contents of charge laid down as follows:

“ That on 03/09/2021 at about 15.30 hrs you being B.D. National entered at Changrabandha without any valid documents i.e., Passport, Visa etc that you thereby committed an offence punishable u/s 14A Foreigners” Act within the cognizance of this court.

.....

The contents of the charge is read over and explained to the accused person in Bengali to which he pleaded and did not claim to be tried.”

Having regard to the exercise made by the learned trial court, I am of the opinion that without the paper books being prepared, the appeal cannot be extensively heard. The lower court records have already reached. The department is directed to prepare the paper books preferably by 15th November, 2022.

Learned advocate appearing for the appellant/petitioner submits that he has already served half of the sentence and, as such, he may be released on bail.

Having regard to the fact that no particulars of an Indian citizen who would furnish surety on behalf of the foreigner has been furnished before this Court, this Court is not inspired to accept the prayer advanced by the appellant/petitioner. The prayer for suspension of sentence is refused.

Accordingly, CRAN 2 of 2022 is dismissed.

However, the appellant/petitioner would be at liberty

to file a fresh application in case particulars of Indian citizen who is ready to act as surety before this Court is furnished.

List the appeal before the available Circuit Bench in the month of December, 2022.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)