

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION

CRR 3444 OF 2026

with

CRAN 1 OF 2026

MD. NAZIBUDDIN @ TULU MONDAL

VS.

THE STATE OF WEST BENGAL

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioner

:Mr. Siddharth Dave, Sr. Adv.
Mr. Sabyasachi Banerjee, Sr. Adv.
Mr. Ayan Bhattacharyya, Sr. Adv.
Mr. Ankur Chawla, Adv.
Mr. Anand Keshari, Adv.
Ms. Diksha Ghosh, Adv.
Mr. Shivam Tandon, Adv.
Mr. Snehasish Dey, Adv.
Mr. Sikanda Ansari, Adv.
Ms. Janhavi Negi, Adv.

For the State respondents

:Mr. Surajit Nath Mitra, Ld. AG
Mr. Billwadal Bhattacharyya, Ld. AAG
Mr. Kallol Mondal, Ld. PP
Mr. Sourav Sengupta, Adv.
Mr. Pawan Kr. Gupta, Adv.
Mr. Anamitra Banerjee, Adv.

Hearing concluded on

: 22.09.2026

Judgment on

: 22.09.2026

SAUGATA BHATTACHARYYA, J.:

1. Criminal Revisional Application is heard at length in presence of learned advocates representing parties.

2. Mr. Siddharth Dave, learned Senior Advocate represents petitioner and has made submissions which are chiefly directed against order dated 30th July, 2026 whereby non-bailable warrant of arrest was issued against petitioner and subsequent order dated 10th August, 2026 issuing proclamation directing petitioner to appear before the court below on 14th September, 2026. Both the orders dated 30th July, 2026 and 10th August, 2026 were passed by the learned Additional Chief Judicial Magistrate, Suri, Birbhum.

3. GR Case No. 1373/2026 originates from Mohammad Bazar Police Station Case (FIR) No. 267/26 dated 30th July, 2026 wherein petitioner is one of the accused persons. It is strenuously argued by learned Senior Advocate representing petitioner that FIR was registered on 30th July, 2026 commencing aforesaid criminal prosecution and on same date non-bailable warrant of arrest was issued by dint of order of court below which is contrary to the provision under Section 75 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Provision of Section 75(1) is relied upon wherein it is provided that the Chief Judicial Magistrate or a Magistrate of the first class may direct a warrant to any person within his local jurisdiction for the arrest of any escaped convict, proclaimed offender or of any person who is accused of a non-bailable offence and is evading arrest. According to petitioner, after registering case on 30th July, 2026 on what basis court below came to conclusion that petitioner was evading arrest at the material point of time and warrant of arrest was issued vide order dated 30th July, 2026. As per petitioner, it is

hasty decision so far court below is concerned foreclosing right of petitioner to approach appropriate forum seeking pre-arrest bail. Prayer is made for setting aside of order dated 30th July, 2026.

4. Argument has also been advanced against order dated 10th August, 2026 by which proclamation was issued against petitioner requiring his presence before the court below on 14th September, 2026. In this regard, notice of this Court has been drawn to Section 84(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 which provides if any court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation. It is submitted on behalf of petitioner that without making appropriate inference based on steps taken by police and without having found that petitioner was evading arrest and subsequently absconded and/or was concealing himself so that warrant issued on 30th July, 2026 could not be executed, court below by two consecutive impugned orders dated 30th July, 2026 and 10th August, 2026 first issued non-bailable warrant against petitioner and subsequently issued proclamation order directing petitioner to appear before the court on 14th September, 2026. Before making requisite findings in terms of Sections 75 and 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in hot haste steps

were taken leading to issuance of non-bailable warrant of arrest and proclamation order.

5. In support of such contention reliance is placed on the judgment of the Hon'ble Supreme Court reported in **(2000) 10 SCC 438 (State through CBI Vs. Dawood Ibrahim Kaskar & Others)**. It is submitted that **Dawood Ibrahim Kaskar** (supra) was not appropriately relied upon by the court below while passing order dated 30th July, 2026 issuing non-bailable warrant of arrest since in said judgment Hon'ble Supreme Court was examining permissibility of issuing warrant of arrest post filing of charge-sheet. Reliance is placed on observation made by the Hon'ble Supreme Court in paragraph 24 of said judgment and it is submitted that argument advanced on behalf of CBI being the appellant was not accepted.

6. Mr. Billwadal Bhattacharyya, learned Additional Advocate General represents State respondents on virtual mode.

7. During course of hearing, a report dated 22nd September, 2026 of Inspector-in-Charge of Mohammad Bazar Police Station is placed before this Court in sealed cover. Court has perused report dated 22nd September, 2026. Same is taken on record in sealed cover.

8. It is submitted on behalf of State respondents that after initiation of criminal prosecution on 30th July, 2026 investigating agency came to know from NATGRID portal that petitioner left India on 23rd May, 2026. According to State respondents, since it was learnt that petitioner was not within the country steps were taken by approaching court below for issuance of warrant of arrest and order

was passed on 30th July, 2026 issuing warrant of arrest which was made returnable on 7th August, 2026. All necessary efforts were undertaken by concerned Investigating Officer and police personnel for execution of warrant but same could not be executed on or before 7th August, 2026 since accused left country by that time, consequently Non-Execution Report was submitted before the court below. Thereafter vide order dated 10th August, 2026 proclamation was issued and as per same petitioner was required to appear before the court below on 14th September, 2026.

9. Having considered respective contentions raised on behalf of parties and taking note of report filed today dated 22nd September, 2026, it appears that indisputably petitioner left country on 23rd May, 2026 before initiation of aforesaid criminal prosecution on 30th July, 2026.

10. It is true that under Section 75 of the Bharatiya Nagarik Suraksha Sanhita, 2023 one of the conditions contemplated is warrant of arrest can be issued against any person who is accused of non-bailable offence and is evading arrest.

11. It is submitted on behalf of petitioner that how investigating authorities and subsequently court below came to the conclusion that petitioner was evading arrest since case was registered on 30th July, 2026 and non-bailable warrant of arrest was issued on the same date itself, 30th July, 2026. However, such submission made on behalf of petitioner that no reasonable time was accorded to take steps under Section 175 of Bharatiya Nagarik Suraksha Sanhita,

2023 to come to a finding that petitioner being accused was evading arrest pales into insignificance since admitted fact was petitioner left country on 23rd May, 2026. Had petitioner been in the country in that event there was prescribed exercise which was required to be carried out before issuance of warrant of arrest so far investigating agency and court below are concerned.

12. In **Dawood Ibrahim Kaskar** (supra) moot question was formulated in paragraph 12, whether a court can issue warrant of arrest to apprehend a person during investigation for his production before police in aid of investigating agency since submission was advanced on behalf of CBI that in terms of warrant of arrest accused was required to be produced before the police. Partly negating such contention raised on behalf of CBI, it was succinctly observed in paragraph 24 that on issuance of warrant of arrest under Section 73 of the Code of Criminal Procedure (Cr.P.C.) accused is required to be produced before the Magistrate and after such production Magistrate shall take a call under Section 167 Cr.P.C. Taking note of admitted fact that petitioner left country on 23rd May 2026, situation which is being considered in the present criminal revisional application is completely different.

13. In aforesaid conspectus, Court does not find fault with order dated 30th July, 2026 passed by the court below issuing warrant of arrest against petitioner in order to facilitate investigation in aforesaid criminal prosecution. When petitioner did not appear before the court below on 7th August, 2026 option which was left

open to the authorities was to take steps for issuance of proclamation order as contemplated under Section 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

14. Before parting with it needs to be recorded that report filed today reveals there was recovery of cash to the tune of Rs. 28,53,47,000/- and gold bars (15kgs) suspected to be proceeds of crime and subsequent recovery of physical and electronic documents disclosing alleged commission of organized crime coupled with additional discovery of huge money in various banks and other accounts. Therefore, Court refuses to interfere with the present revisional application and same stands dismissed.

15. Application being CRAN 1 of 2026 seeking early hearing of connected revisional application stands disposed of.

16. Urgent photostat certified copy of this judgment, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)