

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)

Present

Mr. Justice Sikder Mahmudur Razi
And
Mr. Justice Raziuddin Ahmed

Writ Petition No. 1228 of 2025

Md. Showkat Ali Sardar
.....Petitioner.

-Versus-

Joint District Judge 2nd Court and Artha Rin
Adalat Naogaon and others
.....Respondents.

None appears
.....For the petitioner.

Mr. Ashique Rubaiat, Advocate
.....For the respondent No. 2.

Mr. Mohammd Mehdi Hasan, DAG with
Mr. Mohammad Rashadul Hassan, DAG with
Mr. Kamrul Islam, AAG with
Mr. Md. Shagar Hossain, AAG with
Mr. Bishwanath Karmaker, AAG with
Mr. S.K. Obaidul Haque (Wasim), AAG
----- For the Respondents-Government.

The 09th December, 2025

This is an application for discharging Rule on the ground stated therein.

Mr. Ashique Rubaiat, learned Advocate for the respondent No. 2-applicant Bank by filing an application submits that the according to section 34(6) of the Artha Rin Adalat Ain 2003 “উপ-ধারা (৫) এর বিধান সত্ত্বেও, দেওয়ানী কারাগারে আটক দায়িক ঐদি ডিক্রীদারের অপরিশোধিত পাওনার ২৫% এর সমপরিমাণ অর্থ নগদ পরিশোধ করিয়া এই মর্মে বন্ড প্রদান করেন যে, তিনি পরবর্তী ৯০ (নব্বই) দিবসের মধ্যে অবশিষ্ট পাওনা পরিশোধ করিবেন, তবে সেক্ষেত্রে আদালত দায়িককে মুক্তি প্রদান করিবো” Therefore, in order to make prayer of bail the petitioner must pay 25% of decretal amount. The

petitioner did not pay the required amount as per the above-mentioned provision. That without complying with the condition mentioned in section 34(6) of the Artha Rin Adalat Ain 2003, the petitioner is not even entitled to apply for bail, since the payment of 25% is the pre-condition before applying for bail. Therefore, the petitioner has no right to apply for bail in the instant writ petition without paying 25% of decretal amount. With these submissions the learned advocate prays for discharging Rule.

No one appears to oppose the application. although copy of the same was duly served.

We have heard the learned Advocate for the respondent No.2 applicant-bank. We have gone through the writ petition, application and materials on record.

On perusal of the record, it appears that the main ground taken by the petitioner was that before passing the impugned order no show cause notice was issued as per Order XXI Rule 37 of the Code of Civil Procedure. But the law is settled on this point. It has already been settled by a catena of judgments that there is no need to issue any show cause notice under the provision of Section 51 and order XXI Rule 37 of the Code of Civil Procedure; rather civil imprisonment can be awarded and warrant can be issued directly under section 34 of the Ain, 2003 since it makes an elaborate, exhaustive and independent provision for awarding civil imprisonment and issuing of warrant of arrest irrespective of man and woman. As ready reference reliance can be placed on the case of

Provat Kumar Das vs Agrani Bank, 15 BLC (AD) 96, Kanika Begum vs Artha Rin Adalat, 64 DLR 276, Manik K Bhattacharjee vs Artha Rin Adalat, 16 BLC 195.

It further appears that the loan in question is not secured by any mortgaged property and therefore, the Adalat committed no illegality in passing the order under section 34 of the Artha Rin Adalat Ain, 2003.

In the light of the above facts and circumstances we find substance in the instant application and accordingly, the same is allowed and the Rule issued in the instant matter is hereby discharged.

However, there is no order as to cost. The interim order passed at the time of issuance of the Rule is hereby recalled and vacated.

Communicate the judgment to the concerned authority, at once.

I agree

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(Sikder Mahmudur Razi, J.)

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(Raziuddin Ahmed, J.)