

In The High Court at Calcutta
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 15535 OF 2026

SAMRAT CHAKRABORTY
VS.
THE STATE OF WEST BENGAL AND OTHERS
.....

Dr. Arka Pratim Chowdhury, Adv.
Ms. Puja Rajbhor, Adv.
Ms. Dipanwita Das, Adv.

...For the Petitioner

Ms. Aparajita Mitra, Adv.

...For the State

Mr. Debasish Banerjee, Adv.
Ms. Sumitra Das, Adv.
Mr. Rakesh Jana, Adv.

...For the Respondent No.5

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. By presenting this writ petition, *inter alia*, petitioner has prayed for quashing of criminal prosecution being Khardah P.S. Case No.348 of 2026 dated 28th June, 2026 under Sections 115(2)/ 3(5)/ 308(5)/ 351(3)/ 61(2) of Bharatiya Nyaya Sanhita, 2023.
3. It is submitted on behalf of the petitioner that in connection with a previous incident which took place long back complaint was lodged on 26th June, 2026 against the petitioner who is Councilor of a Municipality and as such aforesaid criminal prosecution is frivolous, vexatious and not tenable. According to the petitioner, to wreak vengeance after change of ruling dispensation such complaint was lodged to implicate him. It is also submitted that an

application under Section 482 of BNSS is preferred before the learned Sessions Judge at Barasat seeking pre-arrest bail and same is pending.

4. Learned advocate representing State respondents has opposed this writ petition and placed reliance upon the contents of the communication dated 15th July, 2026 of Officer-in-Charge, Khardah Police Station, Barrackpore Police Commissionerate and same is taken on record.
5. Defacto complainant being respondent no.5 is represented by learned advocate who submits in reference to the complaint dated 26th June, 2026 that incident narrated therein is not only confined to year 2015 but also relates to December, 2025.
6. This Court has perused the complaint dated 26th June, 2026 lodged by respondent no.5 wherefrom it appears that allegations are made against the petitioner that petitioner extorted money from the complainant. It also appears from the said complaint that sum was allegedly demanded by the petitioner in December, 2025. This Court cannot brush aside the fact at this stage that petitioner was a Councilor of a Municipality and is influential person. Today, investigation is at the nascent stage. When facts are hazy it would not be proper so far this Court is concerned to make an endeavour to find out the veracity of the allegation leveled against the petitioner.
7. In this regard, reliance is placed on paragraph 33.16 of the judgment of the Hon'ble Supreme Court reported in ***(2021) 19 SCC 401 (Neeharika Infrastructure Private Limited vs. State of***

Maharashtra and Others). Paragraph 33.16 runs *infra*:-

“33.16. The aforesaid parameters would be applicable and/ or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 CrPC and/ or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/ or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438 CrPC before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/ or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/ charge-sheet is filed under Section 173 CrPC, while dismissing/ disposing of the quashing petition under Section 482 CrPC and/ or under Article 226 of the Constitution of India.”

8. It was succinctly decided in ***Neeharika Infrastructure*** (*supra*) that High Court while exercising writ jurisdiction under Article 226 of the Constitution of India needs to exercise its power in deciding a writ petition seeking quashment of criminal proceeding sparingly and with circumspection. It is not a routine procedure to pass order thereby granting protection to the petitioner or

issue a mandamus declaring criminal proceeding is void.

9. Moreover, petitioner has approached learned Sessions Judge seeking pre-arrest bail under Section 482 BNSS, 2023 and same is pending for adjudication.
10. In aforesaid conspectus, Court is not inclined to interfere with this writ petition and same stands dismissed.
11. However, this order shall not preclude the petitioner to take steps, in accordance with law, and to press pre-arrest bail application before the appropriate forum.
12. Urgent photostat certified copy of the order, if applied for, be given to the parties upon usual undertakings.

(SAUGATA BHATTACHARYYA, J.)