

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 200 of 2015

1. Subbiaha Nallu Swamy S/o Late Subbiaha Maniyam Aged About 50 Years Managing Director M/s EICS Group Of Companies, Bilaspur, P.S. Civil Line, Bilaspur (C G)
2. Mrs. Hemalatha Nallu Swamy W/o Mr. Subbiaha Nallu Swamy, Aged About 43 Years, Joint Managing Director Of M/s EICS Group Of Companies, Bilaspur, P. S. Civil Line Bilaspur (C G)

Petitioner No. 1 And 2 Both R/o MIG - Q - 51, Geetanjali Enclave, Ring Road - 2, Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. Baguiati Police Station B. D. N. Commissionerate, Kolkata, (W. B) Through Officer In-Charge

Mr. Basudev Mokami, Sub-Inspector, B. D. N. Commissionerate, Kolkata, (W. B)
2. Mr. Sandeep Roy Aged About 40 Years Managing Director, M/s Royz Archcon Pvt. Ltd., Sree Ashiana, 30/6, Ragdanga, Main Road (East), Markel Bagen, Kolkata (W. B.)
3. State Of Chhattisgarh, Through Officer In-Charge, Civil Lines Police Station, Bilaspur, District Bilaspur (C. G.)

---- Respondents

For Petitioners	Shri Akhilesh Kumar, Advocate
For Respondent/State	Shri P. K. Bhaduri, GA
For Respondent No.1	Shri R. S. Marhas, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

17/11/2015

1. The petitioner No.1 is an accused in Crime No.665/2013 registered at Police Station, Baguiati, District North 24, Parganas, West Bengal for

offences under Sections 420 & 406 read with Section 34 of IPC. During investigation of the said crime, the Calcutta Police arrested the petitioner No.1 on 17.08.2015 from his residence situated at MIG-Q-51, Geetanjali Enclave, Ring Road-2, Bilaspur (Chhattisgarh).

2. In this petition, the petitioners are seeking quashment of the order dated 17.08.2015 passed by the Chief Judicial Magistrate, Bilaspur (for short 'C.J.M.') refusing to enlarge the petitioner No.1 on bail and allowing transit remand to the Calcutta Police for the production of petitioner No.1 before the Jurisdictional Magistrate, at Barasat, North 24, Parganas (West Bengal).
3. It is argued that before arresting the petitioner No.1, the provisions contained in Section 41A of the Code of Criminal Procedure has not been followed, which is contrary to the Supreme Court's order in the matter of **Arnesh Kumar vs. State of Bihar and another**¹. It is also argued that the petitioner No.1 was arrested in early hours at 5 a.m. on 17.08.2015, which is in violation of his human rights.
4. The document available in the record would indicate that the petitioner No.1 was arrested from his house at Bilaspur at 7:45 hours on 17.08.2015 and not at 5 a.m. as argued by the petitioners. It is also reflected in the order passed by the learned C.J.M. as well as the submission memo of the I.O. presented before the C.J.M., Barasat that despite repeated notices under Section 41A of the Cr.P.C., the petitioners did not assist the Police during investigation, therefore, it became imperative for the concerned police to arrest the petitioners for conducting the investigation.

¹ (2014) 8 SCC 273

5. It is informed that after the arrest of the petitioner No.1 and the surrender of the petitioner No.2, both of them have already been released on bail by the Jurisdictional Magistrate at Barasat, North 24, Parganas.
6. In view of the fact that Section 41A of the Cr.P.C. has been duly complied with and the crime has been registered at Police Station, Baguiati, District North 24, Parganas in the State of West Bengal, this Court does not find any substance in this petition under Article 226/227 of the Constitution of India.
7. Accordingly, the writ petition is dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala