

16.10.2020

gd

WPA 7393 of 2020  
with  
CAN 1 of 2020  
(Via Video Conference)

Saheb Mondal  
Vs.  
The State of West Bengal and Ors.

Mr. Debajyoti Deb  
..for the petitioner.

Mr. Subhabrata Datta  
Mr. Debasish Sarkar  
..for the State.

Mr. Kallol Mondal  
Ms. Amrita Chel  
..for the Respondent No.4.

The petitioner claims that his daughter aged about three and half years is now with the daughter's maternal grand-parents and the petitioner does not have access to her despite being the father and natural guardian of the daughter.

The State says that the petitioner's wife died in suspicious circumstances and, upon an investigation being conducted, a charge-sheet has been filed under Section 302 of the Penal Code. Charges have not been framed yet.

Ordinarily, when credible charges of the father's involvement in the unnatural death of the mother of a minor are carried to a court, the court should be very

slow in granting custody of the child to such parent.

The petitioner herein is left free to approach the civil court for an appropriate remedy that the petitioner may be entitled to. Once it is seen in this jurisdiction that the person in respect of whom habeas corpus is sought is safe and in the custody of someone who may have a legal ground therefor, the authority would not extend to making other orders like temporary custody or visitation rights.

WPA 7393 of 2020 and CAN 1 of 2020 therein are disposed of with the liberty as recorded above.

(Sanjib Banerjee, J.)

(Arijit Banerjee, J.)

