

17.12.2021.
Court No.13
Item No. 5
ap

**W.P.A. No. 14310 of 2021
(Through Video Conference)**

**Iswar Shaw
Versus
The State of West Bengal & Ors.**

Mr. Rajdeep Majumdar,
Mr. Moyukh Mukherjee,
Mr. S.B. Roy Chowdhury,
Ms. Aishwarya Bazaz.

...For the petitioner.

Mr. Samrat Sen, Id. Sr. Advocate,
Mr. Jishnu Chowdhury,
Ms. Manali Ali,
Ms. Amrita Panja Moulick.

...For the State.

Mr. Phiroze Edulji.

...For the NCB.

Affidavit-of-service filed in Court today be taken
on record.

The application under Article 226 of the
Constitution of India is directed against an FIR and
arrest of the writ petitioner for the offence committed
under Section 21 of the Narcotic Drugs and
Psychotropic Substances Act, 1985.

The principal ground urged is that the
proceedings are motivated and an abuse of process by
ruling dispensation as a backlash to the petitioner
having contested the recent Assembly Election from
Howrah Madhya (171) Constituency.

A large number of arguments have been made
based on the decision dated 10th August, 2018 passed
in C.R.M. No. 5708 of 2018 of a Division Bench of this

Court, the decision of the Hon'ble Supreme Court in the case of ***Arnab Manoranjan Goswami – Vs. – The State of Maharashtra & Ors.*** reported in ***(2021) 2 SCC 427***. Reference is also made to the decision of this Court in order dated 19th July, 2021 passed in W.P.A. No. 11326 of 2021 in the case of ***Gobinda Hazra – Vs. – The State of West Bengal & Ors.*** Reliance is also placed on the decision of the Hon'ble Supreme Court of India in the case of ***The State of West Bengal – Vs. – Suvendu Adhikari & Ors.*** being ***S.L.P. (Criminal) No. 9251 of 2021*** by which an order dated 6th September, 2021 came to be confirmed by the Hon'ble Supreme Court of India.

Interim bail is sought in the form of an interim relief under Article 226 of the Constitution of India. Several discrepancies in the procedure adopted by the Investigating Officer of the case are mentioned, to demonstrate violation of the dicta of the Hon'ble Supreme Court in the case of ***Dilip Kumar Basu – Vs. – The State of West Bengal*** reported in ***AIR 1997 Supreme Court 610***.

Having heard the learned Counsels for the respective parties, for the purpose of interim bail, this Court finds that at page 60 of the writ petition, which listed out the number of candidates, who contested in the said Election and the petitioner's name does not feature.

Since a political vendetta is the sole reason cited and in view of the fact that that the petitioner had not even contested the Election, this Court finds gross inconsistency in the pleadings as opposed to the Annexure of the writ petition.

This Court is, therefore, not inclined to even admit the writ petition. For the serious inconsistencies and false statement made on affidavit, the writ petition shall stand summarily dismissed.

Since no affidavits have been called by this Court, the allegations in the writ application shall not be deemed to have been admitted by any of the respondents.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)