

AD. 11.
January 7, 2021.
MNS.

W. P. A. 8831 of 2020
(**Via video conference**)

Md. Tafazzal Hoque
Vs.
The State of West Bengal and others

Mr. Atarup Banerjee,
Mr. Mohim Sashmal,
Mr. Naseeb Khan Joy

... for the petitioner.

Sk. Md. Galib,
Mr. Mihir Kundu

...for the respondent-authorities.

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

The petitioner alleges that, on the
complaint of the petitioner regarding harassment
and other unlawful activities allegedly committed
by the private respondents, a first information
report was registered and the said respondents
were arrested by the police. However,
subsequently the private respondents were
released on bail and are still at large.

Learned counsel for the petitioner argues
that, after enlargement on bail, the private
respondents have been threatening the petitioner,
making it impossible for the petitioner to

discharge his duties as the local Panchayat Pradhan, thus, violating Article 21 of the Constitution of India. Learned counsel hints at collusion, since the respondent no. 5 is a civic volunteer assisting the police authorities in the locality.

Learned counsel for the respondent-authorities files a report indicating the status of the investigation on the complaint of the petitioner as well as the counter-complaint lodged by the private respondents against the petitioner.

Let such report be taken on record.

Learned counsel for the respondent-authorities submits that investigation was completed in both the cases and respective charge sheets filed. As such, it is submitted that there is no further scope of any action being taken by the police, since the private respondents are already on bail.

It is further submitted by the respondent-authorities that respondent no. 5 has also been immobilized from service pursuant to the petitioner's complaint.

It is seen from the materials on record that the police took sufficient action on the initial complaint lodged by the petitioner, which

culminated in a first information report being registered and, ultimately, charge sheet being filed.

Thereafter, the petitioner approached the Inspector-in-Charge of the Harishchandrapur Police Station with the allegation that the petitioner was being threatened by the private respondents after being enlarged on bail. Subsequently, on September 2, 2020, the petitioner also approached the Superintendent of Police, Malda, with the same complaint.

However, since the private respondents were enlarged on bail by a competent criminal court, the police have no authority to arrest the private respondents in connection with the same sequence of events. Although learned counsel for the petitioner places reliance on Section 195(2) of the Criminal Procedure Code in that regard, the said provision does not contemplate further arrest on the same sequence of events, particularly after bail was granted to the accused persons.

In the event the petitioner has any grievance against the accused persons, appropriate remedy of the petitioner is to approach the criminal court which granted bail

and to seek cancellation of such bail on the grounds as taken in the present writ petition.

However, the writ petition is not maintainable in the circumstances as disclosed from the materials on record.

Accordingly, W. P. A. 8831 of 2020 is dismissed.

Liberty is granted to the petitioner to approach the appropriate criminal court for cancellation of the bail of the private respondents. If so approached, the said criminal Court will consider such prayer in accordance with law, without being prejudiced in any manner by any of the observations made herein.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)