

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**W.P.A. No. 11476 of 2020
(Through Video Conference)**

**Kishore Dey
-vs.-
The State of West Bengal & Ors.**

Mr. Debapratim Guha,
Mr. Rajiv Lochan Chakraborty,
Ms. Anchita Sarkar
...for the petitioner

Mr. Pantu Deb Roy,
Mr. Sburata Guha Biswas
...for the State-respondents

Mr. Sudip Sarkar,
Mr. Prabir Majumder
...for the respondent nos. 4 & 5

The petitioner complains that one of the petitioner's brothers was murdered, for which the petitioner approached the police authorities. Subsequently, the petitioner alleges, the other brothers of the petitioner, being the private respondents herein, have been issuing grave threats to the petitioner, for which the petitioner had to approach the police authorities again, apprehending risk to the petitioner's life and property. It is argued that the police authorities have not taken any meaningful step regarding investigation into the matter and/or affording protection to the petitioner.

Learned counsel appearing for the private respondents hands up a photocopy of an order passed by the Sessions Judge, Nadia, whereby the private respondents were enlarged on anticipatory bail. It is submitted that such anticipatory bail is still subsisting.

Learned counsel for the respondent-authorities submits that, pursuant to the order dated August 26, 2020 passed by the concerned Magistrate in Miscellaneous Petition Case No. 335 of 2020 under Section 156(3) of the Criminal Procedure Code, the police have already registered a First Information Report and are conducting investigation in the matter. It is submitted that the police shall file a further report regarding such investigation as and when required, before the concerned Magistrate. Copies of the said order dated August 26, 2020 and the First Information Report are annexed to the writ petition, respectively at pages 29 and 30 thereof.

Since the private respondents are on anticipatory bail, the petitioner's prayer in the writ petition for directing the police-authorities to arrest the private respondents is not maintainable. In any event, since a criminal proceeding is going on and the police have registered a First Information Report and are investigating into the matter, no useful purpose would be served in passing further directions on the police,

since the competent Magistrate is already in seisin of the matter.

Accordingly, W.P.A. No. 11476 of 2020 is disposed of with liberty to the petitioner to approach the concerned Magistrate in the event the petitioner is dissatisfied with the provisions of law under which the accused are being investigated.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)