

01.02.2022.
Item No.1
Court No. 38
d.g.

W.P.A. No. 1533 of 2022

**Sumit Roy
Vs.
The Union of India & Ors.**

**Mr. Ratnanka Banerjee, Sr. Adv.
Mr. Debasish Roy, Sr. Adv.
Mr. Sandipan Ganguly, Sr. Adv.
Mr. Sanjay Basu, Adv.
Mr. Ayan Bhattacharjee, Adv.
Mr. Ayan Poddar, Adv.
Mr. Soumen Mohanty, Adv.
Mr. Piyush Roy, Adv.
Ms. Poulami Bhowmick, Adv.
...for the petitioner**

**Mr. Y. J. Dastoor, Ld. A.S.G.
Mr. Phiroze Edulji, Adv.
Mr. Samrat Goswami, Adv.
...for the Union of India**

This writ petition is directed against a notice dated 25 January, 2022 issued by the respondent no.2, inter alia, requesting the petitioner to appear before the Investigating Authorities on 1 February, 2022 at 11 a.m.

It is submitted on behalf of the petitioner that the impugned notice has been issued without jurisdiction and is bad in law. It is further submitted on behalf of the petitioner that the petitioner is not named in the First Information Report and there is no question of the impugned notice having being issued to the petitioner. It is also submitted that the petitioner had visited the office of the Central Bureau of Investigation this morning and has been requested to return after lunch.

On behalf of the respondents, it is argued by the learned Additional Solicitor General that it has now become fashionable (without any cogent grounds) for any individual to approach Court upon receipt of a notice requesting him or her to join the investigation. It is further submitted on behalf of the respondents that there is no question of a Writ Court interfering at this stage of the proceeding without availing of any of the remedies available to the petitioner under the Code of Criminal Procedure. The respondents also rely on ***Neeharika Infrastructure Private Ltd. vs. State of Maharashtra and Ors.*** reported in **2021 SCC Online SC 315**.

I have heard the parties.

I am of the view that in the peculiar facts and circumstances of the case and keeping in mind that the matter is being heard after the petitioner has practically complied with the impugned notice, there appears to be no immediate threat or apprehension of the petitioner being arrested today in terms of the impugned notice.

Accordingly, I am inclined that upon the petitioner resuming the investigation before the Central Bureau of Investigation and cooperating with the Investigating Authorities in terms of the impugned notice, the petitioner shall not be arrested in terms of the impugned notice requesting the petitioner to appear on 1 February, 2022. I make it clear that no other issue is

being decided in this petition. In view of the fact that the matter has been heard at a belated stage, this limited order is passed only in respect of the impugned notice dated 25 January, 2022.

Since no affidavit has been called for the allegations contained in the petition are denied.

With the aforesaid directions, WPA 1533 of 2022 stands disposed of.

Urgent certified photostat copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Ravi Krishan Kapur, J.)