

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 2008 of 2022

**Manish Pramanik
Vs.
The State of West Bengal**

**For the petitioner : Mr. Swapan Kumar Mallick, Adv.,
Mr. Tanmoy Chowdhury, Adv.,
Mr. Ritoprita Ghosh, Adv.**

**For the State : Mr. Sanjoy Bardhan, Adv.,
Mrs. Amrita Gaur, Adv.**

Judgement on : 11.08.2022.

Bibek Chaudhuri, J.

The petitioner was booked for committing offence under Section 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act in connection with Ramnagar Police Station Case No. 182/2022 dated 8th May, 2022.

It appears from the *suo motu* complaint filed by one S.I., Ujjal Kumar Naskar attached to Ramnagar Police Station in Purba Medinipore that the petitioner and another accused person were intercepted at about 1:05 A.M. on 8th May, 2022 from a place near Ramnagar Bazar on the basis of a source information that they were in possession of huge quantity of codeine mixture in violation of Section 21(C) of the NDPS Act.

According to the complaint after interception the accused persons were searched and Police recovered one plastic container with 4600 ML of liquid codeine mixture contained therein. The contraband article along with the container and bag and a motorcycle were seized from the possession of the accused persons.

The case of the petitioner, on the other hand, is that the petitioner was illegally arrested from Bhagabanpur Khaga More on 7th May, 2022 at about 5:00 P.M. No arrest memo or any document was prepared at the time of his arrest by the Police attached to Bhagabanpur Police Station. After arrest he was mercilessly beaten. Thereafter, he was sent to Ramnagar Police Station. At Ramnagar he was implicated in a false case under the NDPS Act.

It is contended by the Learned Advocate for the petitioner that after so-called arrest dated 8th May, 2022 the arresting officer failed to observe the established guidelines of the Hon'ble Supreme Court in the case of **D. K. Basu**. As per the example after arrest the family members of the petitioner were not informed though it was recorded in the arrest memo that the family members of the petitioner were informed through email message. It is not stated in the arrest memo as to whether any of the family members of the petitioner maintains any email account or not. The email account in which the arrest of the petitioner was informed was not stated in the arrest memo. Thus, the guideline of the Apex Court to be followed at the time of arrest of a person were not complied with by the arresting officer.

It is further submitted by the Learned Advocate for the petitioner that he was produced before the Learned Special Judge under the NDPS Act on 10th May, 2022 though the petitioner was arrested on 8th May, 2022. Thus, the compulsory requirement of production of accused within 24 hours of his arrest before the nearest Magistrate was not complied with.

Thirdly, it is submitted by the Learned Advocate for the petitioner that on 13th May, 2022 the petitioner prayed for production of CCTV footage before the Court below in respect of close circuit television installed at Khaga More over the shop of Mahadev Jana, another over HP Gas Centre, third one over the godown of one Haresh Mallick towards Bhagabanpur Police Station, fourth one installed over the house of one Safu Mallick towards Bhagabanpur Police Station, next one installed over the house of Jalal Mallick towards Bhagabanpur Police Station, the other installed over the shop of Sabir Ali near Bhagawanpur Police Station, the CCTV installed at Bhagabanpur Police Station and other CCTV footage of the CCTV installed within the jurisdiction of Ramnagar Police Station at the petrol pump near Central Bus Stand, Ramnagar and the Ramnagar Police Station. It is submitted by the Learned Advocate for the petitioner that if the CCTV footage are directed to be restored and produced before the Court it would easily be proved that the accused was arrested on 7th May, 2022 by the Police attached to Bhagabanpur Police Station and interception of the accused at 1:05 A.M. on 8th May, 2022 will be proved to be false because the accused was not intercepted from a place near Central Bus

Stand at Ramnagar on the date and time as alleged by the arresting officer as well as the Investigating authority.

The Learned Trial Judge vide order dated 4th June, 2022 rejected the said prayer made by the accused.

Last but not the least, the petitioner applied for production of injury report as well as medical examination report of the petitioner after his arrest on either 7th May, 2022 or 8th May, 2022. If the injury report was produced before the Trial Court it would have been proved that he was mercilessly beaten by the Police authority.

So far as the injury report dated 7th May, 2022 or 8th May, 2022 on the basis of medical examination of the accused/petitioner immediately after his arrest before production before the Court is concerned, this Court is of the view that the said injury report must be in custody of the Police authority and when the petitioner alleges Police atrocity in custody, for all fairness it should be produced before the Trial Court.

Accordingly, the Investigating Officer is directed to produce the injury report of the accused prepared immediately after his arrest by the Medical Officer before the Trial Court on the next date of hearing.

Now comes the question as to the CCTV footage. The Investigating Officer has submitted a detailed report stating, *inter alia*, that the close circuit television and the camera installed at various places at Bhagabanpur and Ramnagar were out of order due to technical fault following a cyclone coined as 'Yaas'. Therefore, the close circuit television of the entire

locality were out of order during the relevant period of time. It is further found from the said report that the Superintendent of Police, Purba Medinipore took step for repair/replacement of close circuit televisions with camera with the higher authority and also Webel Technology Limited, a Public Limited Company who are responsible for supply and installation of close circuit televisions at different points of the road and also in the Police Stations at Purba Medinipore District.

Learned Advocate for the petitioner refers to a decision of the Hon'ble Supreme Court in the case of ***Paramvir Singh Saini –Vs.- Baljit Singh & Ors. (Special Leave Petition (Criminal) No. 3543 of 2020)***. In paragraph 17 of the said report it is observed by the Hon'ble Apex Court that CCTV systems that have to be installed must be equipped with night vision and must necessarily consist of audio as well as video footage. In areas in which there is either no electricity and/or internet, it shall be the duty of the States/Union Territories to provide the same as expeditiously as possible using any mode of providing electricity, including solar/wind power. On perusal of paragraph 17 of the aforesaid report this Court finds that the Supreme Court has culled out a policy which should be adopted by all the States and Union Territories. However, if it is pleaded by the Investigating Officer that the CCTVs which were installed around Bhagawanpur and Ramnagar Police Station were out of order due to cyclonic storm, any direction to produce CCTV footage will be futile and will render the order of this Court useless.

Therefore, under the facts and circumstances of this case this Court cannot help the petitioner directing the Police authority to produce any footage because according to the prosecution there is no footage in close circuit televisions dated 7th May, 2022 and 8th May, 2022.

Under such circumstances, this Court cannot pass any order allowing the prayer of the petitioner.

Before I part with, I must record that the Learned Advocate for the petitioner is factually incorrect to submit that the accused was not produced before the nearest Magistrate on 8th May, 2022. The record shows that on 8th May, 2022 the petitioner was produced before the Learned jurisdictional Magistrate who directed production of the petitioner before the Learned Special Judge on 10th May, 2022.

Thus, the instant revision is **allowed in part**.

The Investigating Officer is directed to produce the injury report of the petitioner on the basis of his medical examination immediately after his arrest before the Court below on the next date of hearing. A copy of such injury report shall be handed over to the Learned Advocate for the petitioner in the Trial Court. The Learned Advocate for the petitioner in the Trial Court is at liberty to take necessary step, if any, on the basis of the said injury report.

(Bibek Chaudhuri, J.)