

S/L 5
24.08.2022
Court. No. 19
GB

WPA 14257 of 2022

Sk. Alkas @ Alkas Sekh
VS
The State of West Bengal & Ors.

*Mr. Saikat Chatterjee,
Mr. Tanmoy Khan,
Mr. Palash Bepari.*

...for the Petitioner.

*Mr. Debasish Ghosh,
Mr. Ratul Das.*

...for the State.

The Court had directed the Superintendent of Police, Purba Bardhaman that the Officer-in-Charge, Mongalkote Police Station, shall produce all the documents with regard to the alleged arrest of the petitioner's son, namely, Meher Ali, in Mongalkote Police Station Case No.132 of 2022 and to disclose the reasons for detention of the petitioner's son in judicial custody after his acquittal from Mongalkote Police Station Case No.32 of 2020. The police authorities were directed to show whether the guidelines of the Apex Court in D.K. Basu's case had been followed while detaining the petitioner's son.

The Superintendent of Police, Purba Bardhaman has filed a report. The Investigating Officer in Mongalkote Police Station Case No.132 of 2022 is present in Court.

It appears that Mongalkote Police Station Case No.132 of 2022 was started against Meher Ali and another. On May 26, 2022, the Officer-in-Charge, Special Operation Group Cell, Purba Bardhaman submitted a complaint before the Inspector-in-Charge, Mongalkote Police Station, inter alia,

stating that on May 24, 2022 while working on a lawful interception input from a mobile number reportedly used in Bardhaman Central Correctional Home by one under trial prisoner, namely, Raju Sk., a movement was made by the police and they traced three packets of contraband articles as per the leads collected from the conversation from the mobile between Raju Sk and Tutun Kumar and Pintu Kumar. The seizure indicated 24 Kgs. of cannabis, 3 firearms and 13 rounds of ammunitions. The interrogation revealed that Meher Ali and Raju Sk. were at the Bardhaman Central Correctional Home. They were continuing such operation from inside the correctional home. On the basis of such letter received from the Officer-in-Charge, Special Operation Group Cell, Mongalkote Police Station Case No.132 of 2022 dated May 26, 2022 under Sections 20(b)(ii)(C) of the NDPS Act, 120B of the Indian Penal Code read with Sections 25/27/35 of the Arms Act, was started. Meher Ali was one of the FIR named accused persons. As Meher Ali was already in custody, the police authorities filed an application praying before the court, for showing Meher Ali as arrested. The request for jail interrogation of Meher Ali was also allowed. The Superintendent, Bardhaman Central Correctional Home was directed to extend all sorts of assistance to the Investigating Officer of the case for jail interrogation of the accused Raju Sk. and Meher Ali.

It appears that although Meher Ali was acquitted from Mongalkote Police Station Case No.32 of 2020, which was also an NDPS case, by judgment and order dated May 20,

2022, but due to the registration of the subsequent FIR on May 26, 2022 the accused who was already in custody, was shown to be arrested before the learned jurisdictional court and necessary orders for interrogation was passed. It is further submitted that the prayer of Meher Sk. for grant of bail in connection with Mongalkote Police Station Case No.132 of 2022 had been rejected by this Court.

The prayer for showing arrest of Meher Ali and interrogation of Meher Ali., who is in jail custody has been allowed by the learned Special Judge. This Court is rather surprised and shocked to discover that the arrest of an accused who was already acquitted, was due to alleged offences being committed while the accused was in jail custody and under the control and supervision of the Superintendent, Bardhaman Central Correctional Home. It appears that the arrest was for alleged use of mobile phones and operation of business in contraband articles and arms and ammunitions from the precincts of the correctional home. Unless the jail authorities are either careless or incapable in discharging their duties, such crime could not have been committed.

The other angle, as to whether the phone had been made available to the accused persons with the help of any of the jail authorities, is a matter which has to be looked into. On the first occasion, the Court was, *prima facie*, of the view that the life and liberty of the petitioner could not be curtailed without there being a specific reason for subsequent arrest of the petitioner. In view of the

aforementioned circumstances, the prayer for release of Meher Ali, cannot be allowed.

Under such circumstances, the DIG, Correctional Home, Bardhaman shall make an enquiry with regard to the activities going on in the correctional home. The actions of the Superintendent of Bardhaman Central Correctional Home and other subordinate officials shall be enquired into, in order to ascertain the truth and responsibility shall be fixed. How the mobile phones and sims could have been in possession of Raju Sk. and Meher Ali, during their stay at the correctional home, and how they could operate the crime from within the jail, is a matter of serious concern. The other allegation against some police personnel having asked for bribe from the petitioner, shall also be investigated by the DIG, Correctional Home, Bardhaman.

Although, the writ petition is being disposed of, the DIG, Correctional Home, Bardhaman shall file a report upon conclusion of the enquiry within three months, from date, before the learned Registrar General, Calcutta High Court in a sealed cover for onward transmission to the Bench having jurisdiction, for perusal and information.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)