

Form J(1)

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

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

CRR 3050 of 2022

**Bimal Kumar Pathak
Vs.
The State of West Bengal & Anr.**

**For the petitioner : Mr. Abhimanyu Shandilya, Adv.
Ms. Simi Paul, Adv.**

Heard on : 14.09.2022

Judgment On : 14.09.2022.

Bibek Chaudhuri, J.

Though the instant revision under Section 482 of the Code of Criminal Procedure is filed by the petitioner for quashing of the entire proceeding arising out of Charge Sheet No.11 of 2018 dated 24th April, 2018 under Sections 7 & 13(2) read with 13(1)(d)(i) and 13 (1) (d)(ii) of the Prevention of Corruption Act, it is ascertained from the submission made by the learned Advocate for the petitioner that the petitioner has already filed an application under Section 239 of the Code of Criminal Procedure in the Trial Court sometimes on 27th September, 2018, till date the said application under Section 239 of

the Code of Criminal Procedure has not been disposed of by the Trial Court. In the meantime, the hearing of the said application was adjourned for as many as 33 times.

The petitioner has alleged his false implication in the above-mentioned case at the behest of State machinery as he in his capacity as Audit and Accounts Officer under the Auditor General, West Bengal detected misappropriation of fund of Indira Awas Yojana by Uttar Dinajpur Zilla Parishad. Thus, a false complaint was lodged on 16th December, 2017 against the petitioner alleging, *inter alia*, that he claimed bribes from the cashier of the Goalpokher-II Panchayat Samity on the assurance that he would submit audit report in respect of audit of the said Panchayat Samity without mentioning any financial fault allegedly made by them. The said application was lodged on 16th December, 2017 before the Superintendent of Police, Anti Corruption Branch at about 4:45 p.m. and the Investigating Officer reached Uttar Dinajpur covering a distance of about 450 Kms from Kolkata for causing investigation and immediately within half an hour formal FIR was lodged.

It is pointed out by the learned Advocate for the petitioner that before lodging complaint, the Investigating Agency started for Uttar Dinajpur from Kolkata in the night of 15th December, 2017. This palpably show that the institution of the case against the petitioner

was preplanned and only to wreak vengeance against him because he had detected misappropriation of fund by Uttar Dinajpur Zila Parishad during audit.

Since the petitioner has already filed an application under Section 239 of the Code of Criminal Procedure, the petitioner is given liberty to agitate all such points as taken in the instant revision before the learned Trial Judge.

Considering such aspect of the matter, I am not inclined to admit this revisional application at this stage. However, the petitioner is at liberty to approach this Court for redressal of his grievance at any subsequent point of time as advised to him.

Since the application under Section 239 of the Code of Criminal Procedure is pending for a long time, the learned Trial Judge is directed to dispose of the said application positively within 3 months from the date of communication of this order.

The instant revision is, thus, **disposed of**.

The petitioner is at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.150.
M/L.**