

21.12.2022
Item No.02
Court No.32
Avijit Mitra

WPA (H) 71 of 2022

In re: An application under Article 226 of the
Constitution of India;

And

Md. Amanulla Sk.

-vs-

State of West Bengal & ors.

Mr. Santanu Chatterjee,
Mr. Rajendra Kumar Nandi
....for the petitioner

Mr. Sabir Ahmed,
Mr. Simanta Kabir
....for the State

Affidavit of service filed by the petitioner be kept
on record.

Mr. Chatterjee, learned advocate appearing for the
petitioner submits that the petitioner's son, namely, Md.
Sahidullah Sk. (in short, Sahidullah) went missing on
and from 25th July, 2022. Such fact was brought to the
notice of the police authorities by lodging a missing diary
being GDE No.1553 dated 26th July, 2022. Appropriate
steps were not taken by the police authorities in spite of
such intimation. As such, the petitioner approached the
Superintendent of Police, Murshidabad Police District by
submitting a representation on 2nd August, 2022.
Thereafter, the wife of Sahidullah lodged a missing diary
on 13th August, 2022. Immediately thereafter on 16th
August, 2022 some unknown miscreants gathered at the
house of the petitioner and abused the family members.

Such fact was also intimated to the respondent no.5 on 16th August, 2022 and a general diary to that effect being GDE No.903 dated 16th August, 2022 was registered. The police authorities have miserably failed to discharge their statutory obligations and had not taken any step to recover Sahidullah. Aggrieved thereby, the petitioner, who is the father of Sahidullah, has approached this Court.

Mr. Kabir, learned advocate appearing for the State submits that a complaint was lodged against Sahidullah by the villagers alleging misappropriation of money to the tune of rupees one crore sixty lakhs approximately. The said complaint was registered as Murshidabad P.S. Case No.581 dated 20th September, 2022 under Sections 406/420/506/34 of the Indian Penal Code. Sahidullah is absconding and the police authorities have initiated steps to produce him before the appropriate Court of law. The allegation that the police authorities have not taken any step on the basis of the diary being GDE No.903 dated 16th August, 2022 is unfounded inasmuch as on the basis of such complaint a local enquiry was conducted and a proceeding under Section 107 of the Code of Criminal Procedure was initiated. Let a copy of the report, as produced, be kept on record.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

A writ in the nature of *habeas corpus* is a prerogative writ by virtue of which the causes and validity of detention of a person are investigated by a summary procedure. There is no material before this Court to infer that Sahidullah is in illegal detention. It appears that he is absconding and investigation in the Murshidabad P.S. Case No.581 dated 20th September, 2022 registered on the basis of the complaint lodged by the villagers against Sahidullah is in progress.

In the said conspectus, no interference is called for in the present *habeas corpus* petition.

Nothing herein shall, however, prevent the petitioner from taking appropriate steps before any other Court or forum, in accordance with law.

The *habeas corpus* petition being WPA (H) 71 of 2022 is, accordingly, disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)