

28-07-2023
Subha
Item no.18
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 1307 of 2022

Maruf Hussain Ronty
-versus-
State of West Bengal

Mr. Sumit Kumar Basu
Mr. Sayan Sachin Basu
Mr. Tridip Sen
Mr. V. Prasad

...for the petitioner.

Mr. Nirupam Dhali

...for the State.

The petitioner has challenged the proceedings arising out of Hili Police Station Case No. 148 of 2021(G. R. Case No. 916 of 2021), subsequently renumbered before the learned Sessions Court as Sessions Case No. 157 of 2021.

Learned advocate for the petitioner has submitted that the petitioner is having a valid passport and in spite of the same, he has been implicated in a case under the Foreigners Act.

Learned advocate submits that the petitioner's mother is staying at Bangladesh, while his wife is staying in India and the petitioner has valid passport for the purpose of visit and transit from India to Bangladesh.

According to the learned advocate, the petitioner has been malafidely implicated in the instant case in spite of being an Indian.

Mr. Dhali, learned advocate appearing for the State submits that the issue which has been canvassed is a question of fact which

is to be scrutinized in course of the trial.

I have considered the submissions of the learned advocate for the petitioner and I find that the petitioner at this stage is before the learned trial court who is about to preside over the consideration of charges.

Having regard to the issues so canvassed and the power of this court at this stage, I am not inclined to interfere with the proceedings for the simple reason that there is a difference between the applicability of the Sections, Acts and whether the allegations made or the materials collected by the Investigation Agency makes out any offence or not.

Taking into account the settled proposition of law that at this stage prior to the consideration of charges or at the stage of consideration of charges, if there is a difference between grave suspicion and some suspicion, the learned courts are to tilt in favour of grave suspicion provided the facts support the same. Further, section 228 of the Code of Criminal Procedure categorically states that “there is ground for presuming that the accused has committed an offence”.

The petitioner was intercepted at the border outpost and the subsequent incident followed. Having considered the same and the stage of the case, I am not inclined to interfere with the proceedings under challenge. However, the petitioner would be at liberty to canvass all his points advanced in the revisional application at the stage of consideration of charges during the trial and at the stage of final arguments of the case before the learned

trial court.

The learned trial court would in the fitness of the circumstances at least fix a schedule consisting of three dates and fix a schedule once in two months so that the trial can be concluded within a reasonable period of time.

With the aforesaid observations, the revisional application being CRR 1307 of 2022 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]