

09 29.08.2023
NB Ct. 14

WPA 18283 of 2023

Shahbaz Rizvi
Vs.
The State of West Bengal & Ors.

Mr. Debashish Roy,
Mr. Navanil De,
Ms. Monami Mukherjee.
...for the petitioner.

Mr. Wasim Ahmed,
Mr. M. Shehaboddin.
....for the State.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to transfer the investigation to any other police station and to initiate disciplinary proceeding against the officials for not complying mandatory provisions regarding investigation of Kulti Police Station Case No.83 of 2022.

Report filed on behalf of the State is taken on record.

Learned senior counsel appearing on behalf of the petitioner submits as follows. The petitioner is the de facto complainant. In the instant case, as the police did not register an FIR, he had to pray for a direction under Section 156(3) of the Code and have the case registered. Kulti Police Station Case No.83 dated 08.02.2022 was started under Section 420, 406, 506, 323 and 120B of the Penal Code against seven accused. At this stage, three accused namely, Asrar Hussain, Anwar Hussain and Riyazuddin Ansari who were earlier arrested were granted bail. Subsequently, the investigating officer of the case prayed for addition of grievous provisions

namely, Sections 467 and 468 of the Penal Code, inter alia, as it was found that an heirship certificate was forged. In spite of this, the accused who were granted bail did not surrender and pray for fresh bail. It was, thus open to the investigating agency to arrest them again, which was not done. The investigating officer also failed to arrest the other accused. The investigation of the accused has not been done properly. As such, the same should be investigated by another police station. The petitioner has already prayed for cancellation of bail of the three accused who were earlier granted bail by this Court.

Learned counsel appearing on behalf of the State relies on the reports and case diaries and submits as follows. It was only last month that a charge sheet was submitted against the accused under Sections 420, 406, 506, 323 and 120B of the Penal Code as well as the added Sections 467 and 468 of the Penal Code. Warrant of arrest has been issued against the accused who were never granted bail.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition and the report filed by the State.

It appears that the prime grievance of the petitioner that the investigation has not been done properly has been substantially redressed. A charge sheet has been filed against all the accused even under the added Sections 467 and 468 of the Penal Code. Warrant of arrest has been prayed against the accused who were never granted bail.

If the petitioner is not satisfied with the investigation, it shall be open to the petitioner to file appropriate application before the learned Magistrate.

So far as the non-surrender of the accused who were granted bail on lesser charges is concerned, the petitioner has already filed an application for cancellation of bail.

Therefore, no further order need be passed in this case.

With these observations, the writ petition is disposed of without any order as to costs.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)