

September 22, 2023
AD 4
Court No.14
SG

WPA 19342 of 2023

Khokan Saha
vs.
Union of India and others

Mr. Anamitra Banerjee
Mr. Subhendu Banerjee
... for the petitioner

Mr. Sanajit Kumar Ghosh
Ms. Sabita Roy
... for the State

Mr. Sayantan Adhya
... for the respondent Nos.4 to 11

Learned advocate for the petitioner submits as follows. Once upon a time the petitioner was a scrap dealer. But, now he is not in the business any more. The railway police once visited the petitioner in connection with the case. In fact, he was interrogated on one occasion. Thereafter the police have been continuously harassing the petitioner by asking him to satisfy them. They even threatened that his son would be put behind bar. The petitioner has also made representation before the higher authorities of the Railways to conduct an inquiry against the errant police officer. On the very day i.e. on 05.09.2023 this Court granted the petitioner an order “not to arrest”, the investigating officer served him a copy of a notice under Section 41A of the Code asking him to appear before him on 11.09.2023 at 12 noon. On 11.09.2023 the petitioner went to meet the investigating

officer, but he was absent. Subsequently, the petitioner surrendered before the trial court and obtained bail.

Learned advocate for the respondents submits that an FIR was registered and the investigation is going on regarding theft of railway properties. Several accused were arrested. From their own records it was found that many of those accused had been in touch with the present petitioner. Therefore, it is understandable that the petitioner has now been in touch with the accused.

On the last occasion i.e. on 05.09.2023, it was submitted that as on 05.09.2023 the petitioner was not an accused in this case. Yet, on that very date he was made an accused and a notice under Section 41A of the Code was served. This is a remarkable coincidence indeed.

Whether it is the ego of the investigating officer or an act of vengeance that prompted him to make the petitioner an accused in the matter on the very day that a protection order was passed by this Court, is a matter that could be decided at a later stage.

To ensure a fair investigation, the Railway authorities are directed to engage another officer to investigate into the case instead of the present investigating officer.

The petitioner shall cooperate with the investigation of the case.

The investigating agency shall conclude the investigation expeditiously and in accordance with law.

The respondent authorities shall also decide on the representation of the petitioner regarding the prayer for inquiry in respect of the present investigating officer at the earliest.

With these observations, the writ petition is disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]