

16.01.2023.
Court No.13
Item No. 12
ap

W.P.A. No. 28875 of 2022

**Binod Kumar Das @ Binod Das
Versus
State of West Bengal & Ors.**

Mr. Mayukh Mukherjee,
Mr. Abhishek Dutt,
Ms. Rupa Singh,
Mr. Akansha Yadav.

...For the petitioner.

Mr. Amit Ranjan Pati,
Ms. Reshmi Mukherjee,
Mr. Ashok Halder.

...For the respondent nos.6 & 7.

The petitioner complains that notwithstanding an FIR No. 693 of 2022 dated 24th November, 2022 under Sections 341/323/506/34 of the Indian Penal Code and Sections 3(1)(c)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the statement of the petitioner under Section 164 of the Code of Criminal Procedure has not been recorded.

An order of the Additional Sessions Judge-in-charge, 1st Court, Paschim Medinipur dated 9th January, 2023 has been produced before this Court. The same is taken on record.

It appears from the said order dated 9th January, 2023 that the learned Magistrate has recorded that the Investigating Officer of the case should not take any harsh step against the accused persons till the

verification of documents and filing of report till the next date of hearing.

The said order was passed on a surrender by the accused persons, who are represented before this Court.

Counsel for the private respondents submits that in respect of an earlier FIR under Section 420 of the Indian Penal Code, anticipatory bail was granted to him on the submissions of the Public Prosecutor that there was no evidence of demand of Rs.5,00,000/- from the petitioner.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has a very stringent provision against grant of bail under Section 18 thereof. Exceptions are carved out for cases where prima facie case is not made out in the complaint.

In the instant case, it is seen that after due enquiry, the Sub-Divisional Police Officer, Kharagpur Town, Paschim Medinipur has registered an FIR.

In the backdrop of the above, the observations of the learned Additional Sessions Judge-in-charge, 1st Court, Paschim Medinipur that no harsh steps should be taken against the accused, appears in derogation, if not in violation of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

There is one other factor that needs to be noticed, that the private respondents have lodged a

complaint which is registered as FIR, inter alia, under Section 420 of the Indian Penal Code, the private respondents have obtained anticipatory bail thereunder.

Admittedly, the petitioner and the private respondents had a love affair between themselves, which has gone sour of late.

It is quite possible that the criminal proceedings between the petitioner and the private respondents against one and another may be a fall out of the sour relations as on date.

Be that as it may, it is ordered that the Additional Sessions Judge-in-charge, 1st Court, Paschim Medinipur shall pass an appropriate order on the surrender petition of the private respondents on 21st January, 2023 without any adjournment.

The Sub-Divisional Police Officer, Kharagpur Town, Paschim Medinipur and the Investigating Officer of the case shall produce all relevant records before the Sessions Judge. In the meantime, the private respondents shall not leave the town of Kharagpur. They shall report to the Investigating Officer of the case every two days.

The learned Additional Sessions Judge-in-charge, 1st Court, Paschim Medinipur shall take a holistic view of the matter and pass appropriate order strictly in terms of the law uninfluenced by any of the observations made hereinabove.

The Sub-Divisional Police Officer, Kharagpur Town, Paschim Medinipur shall conduct a fair investigation and produce the entire case diary as also the case diary relating to FIR registered by the private respondents against the petitioner being Kharagpur Town Police Station Case No. 87 of 2022 dated 22nd February, 2022.

The learned Additional Sessions Judge-in-charge, 1st Court, Paschim Medinipur shall also consider the FIR lodged on the petitioner's complaint being Kharagpur Town Police Station Case No. 279 of 2022 dated 22nd May, 2022.

The Sub-Divisional Police Officer, Kharagpur Town, Paschim Medinipur shall consider the petitioner's application for protection under Section 15A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in accordance with law and pass appropriate order within a period of 48 hours of communication thereof.

Since no affidavit has been called for from the respondents, the allegations made in the writ petition are deemed not to have been admitted by them.

With the aforesaid directions, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)