

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 28315 of 2023

Nivedita Bhattacharjee

Vs.

The State of West Bengal & Ors.

Advocates for the Petitioner : Mr. Moyukh Mukherjee,
Ms. Sagnika Banerjee.

Advocates for the State : Mr. Amitesh Banerjee Ld.SSC.,
Ms. Ipsita Banerjee,
Mr. Tarak Karan.

Advocates for the Respondent
Nos.7 to 14. : Mr. Sandipan Ganguly,
Ms. Hasnuhana Chakraborty,
Mr. Ayanabha Raha,
Mr. Ashis Kr. Mukherjee,
Mr. Saurabh Prasad.

Heard lastly on : 20.12.2023

Judgement on : 20.12.2023

Jay Sengupta, J:

1. This is an application alleging police inaction in investigating the case at hand, to provide police protection to the petitioner and her aged mother and to have the bail granted to the accused cancelled.

2. Affidavit of service filed on behalf of the petitioner is taken on record.

3. At this stage, learned counsel for the petitioner submits that he would not like to press the “prayer b”) made in the writ petition about cancellation of bail of the accused. On his submission, such prayer is disposed of as not pressed.

4. Learned counsel appearing on behalf of the petitioner submits as follows. The twin sister of the petitioner had an interfaith marriage. After some time, her husband died. Thereafter, her in-laws started controlling her finances forcing her to live in penury. This and other torture inflicted by the accused forced her to commit suicide. Her dead body was detected after a few days of her death. On 02.05.2023, a UD case was started. Only after the petitioner lodged a complaint, a police case was started on 06.05.2023. On 02.05.2023 itself, a suicide note was seized from the place of occurrence. This was purportedly made a part of the investigation and sent to the handwriting experts on 17.07.2023 much later. The accused were neither interrogated nor arrested. No statement of the informant was recorded under Section 164 of the Code. Investigation was absolutely perfunctory and biased. Being aggrieved with the police inaction, the petitioner approached this Court. By an order dated 23.08.2023 passed by this Court in WPA 14214 of 2023, it was recorded that the suicide note seized was not a part of the case diary and the investigation was transferred to the Detective Department, Lalbazar. Even after this, the investigation has not been done in a proper way. The suicide note is still not a part of the case diary.

5. Learned senior counsel representing the private respondents submits that the allegations made in the writ petition are denied. The private respondents have nothing to do with the investigation that is going on. Let the same be concluded expeditiously. The prayer made in the writ petition for cancellation of bail is not maintainable. Incidentally, the victim first converted into Islam and then got married.

6. Learned senior standing counsel representing the State relies on the case diary and submits as follows. A thorough investigation has been done by the Detective Department, Lalbazar. Necessary documents have been collected and witnesses examined. The purported suicide note is now very much a part of the case diary. In fact, a report has come from the forensic expert and is made a part of the case diary. It appears that the person allegedly primarily responsible for the victim's death died from Covid in 2021.

7. This is indeed an unfortunate case where the victim was purportedly taking necessary steps in contemplation of committing suicide. According to the suicide note, the victim found that her husband and the in-laws had taken away her properties. As she was allegedly left with nothing, she decided to commit suicide. Upon investigation, it transpired that the husband had mortgaged certain properties belonging to the victim, but failed to service the dues. Legal notice under the SARFAESI Act was given in respect of one such

flat. Investigation is going on into the connection between those facts and the death of the victim.

8. It appears that the investigation of the case is going on in a regular manner. Steps have been taken in course of investigation.

9. Let the petitioner co-operate with the investigation of the case.

10. If the petitioner believes that he has any reason to pray for cancellation of bail of the accused, he shall be at liberty to do so before an appropriate forum.

11. Therefore, no further order need be passed in this regard, at this stage.

12. As affidavits were not called for, allegations contained in the writ petition are deemed not to have been admitted.

13. With these observations, the writ petition is disposed of.

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

(Jay Sengupta, J.)