

15.09.2023
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***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (NDPS) 400 of 2022

In Re.: An application for bail under Section 439 of the Code of Criminal Procedure filed on 28.11.2022 in connection with Kotwali Police Station Case No. 840 of 2021 dated 24.08.2021 under Section 20(b)(ii)(c) of the NDPS Act, 1985.

In the matter of : Labu Islam

... Petitioner

Ms. Suman Sehanabis (Mandal)

...for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Biswarup Roy

.....for the State

Mr. Sudipto Kumar Mazumdar,
Mr. Ajoy Kumar Singhania,
Mr. Sourab Kar,
Mr. Saptak Sarkar

...for the C.B.I.

1. The C.B.I. report filed before us is taken up for perusal.
2. Learned counsel appearing for the deceased petitioner in the bail application, which is the genesis of the present matter, submits that there were several irregularities in the investigation process and the apprehension of the deceased Labu Islam.
3. By pointing out to several paragraphs of the report of the C.B.I. itself, in particular paragraph nos. 14, 19 etc., learned

counsel argues that several components of the events leading to the arrest of Labu ought to have been looked into.

4. Heard learned counsel for the parties.

5. We find from the report that the conclusion of the C.B.I, upon holding detailed investigation, is that there was no foul play involved in the suicide of the deceased Labu. The exact finding of the C.B.I. in the report in that regard is that during investigation, evidences have confirmed that Labu Islam had committed suicide on his own.

6. Sitting in the bail jurisdiction, this Court does not have power to look into the said investigation further.

7. However, insofar as the maintenance of safety, security, sanitation and other health measures and the upkeep of the Korok Children's Home in general, are concerned, there are several observations in the report of the C.B.I, particularly starting from paragraph no. 61 thereof to the end of the report at paragraph no. 78, we find that there are several laches on the part of the Home authorities in maintaining the Korok Home.

8. Insofar as the allegations regarding irregularities in the investigation process and apprehension and seizure with regard to Labu Islam (since deceased), is concerned, liberty is granted to the parents of the petitioner or anybody having interest in the matter to seek reopening of the investigation

posthumously, to ascertain whether the process of apprehension/seizure and/or the investigation was correct in law. If such an application is made, the concerned Magistrate shall look into the issue, if necessary by also taking into consideration the report of the C.B.I. filed herein as a piece of evidence.

9. That apart, liberty is granted to all concerned to take out an appropriate challenge regarding the maintenance and safety standards of the Korok Children's Home and/or other similar institutions and children's homes in the State by way of a Public Interest Litigation or a proper writ petition, if the need for the same is felt.

10. Hence, we dispose of the matter with a direction on the State of West Bengal to immediately commence monitoring of the maintenance of safety standards and other standards, regarding security and otherwise as well as the upkeep of the Korok Children's Home and other children's homes in the State.

11. It is expected that the specific lacunae pointed out in the C.B.I. report, which is a part of this record, shall be taken note of properly and corrective measures be taken up by the State through the appropriate agencies in that regard at the earliest.

12. Let a copy of this order, alongwith a copy of the CBI report, be sent to the State of West Bengal through the District Magistrate, Jalpaiguri for taking necessary action on the above count.

13. If need be, departmental enquiry be initiated against the officers/employees of the Korok Children's Home responsible for the patent lacunae which are found in the upkeep and safety standards of the Korok Children's Home.

14. C.R.M.(NDPS) 400 of 2022 is accordingly disposed of.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)