

11.03.2024
Sl. No.5
akd

C. R. M. (DB) 471 of 2024

In Re: ***Prasenjit Basuli***

... .. Petitioner

Mr. Pinak Kumar Mitra

... .. for the petitioner

Mr. Debasish Roy .. Id. Public Prosecutor

Mr. Tanmoy Kr. Ghosh

Mr. Goutam Banerjee

... .. for the State

1. Pursuant to our earlier direction, Officer-in-charge, Anandapur Police Station and the Investigating Officer are personally present before this court. Their presence is noted and dispensed with.
2. Report in the form of affidavit is placed on record. In the affidavit it is stated Investigating Officer had interrogated one Sujata Shaw, daughter-in-law of the victim lady who claimed that mother of the petitioner-accused told her that the latter had admitted his guilt. This prompted them to implicate the accused.
3. We have taken into consideration the said explanation.
4. Statement of Sujata Shaw is hearsay in nature. Infact the mother of the petitioner was examined earlier and did not corroborate her version. It would have been prudent on the part of the police officers to re-examine the mother of the petitioner after the statement of Sujata Shaw was recorded. No such effort was made and in a hasty manner the Investigating Officer proceeded to arrest the petitioner.
5. The other statement of one Amitabha Basuli, a neighbouring shop owner also does not inspire confidence. There is no reason why the petitioner who is alleged to have been pursued by police would confide in a outsider.
6. Arrest is a vital weapon in the armoury of police. However, this power is to be judiciously exercised lest it results in unjustified denial

of liberty after collection of cogent materials giving rise to reasonable suspicion only of complicity of a suspect, the latter may be arrested if the Investigating Agency is of the reasonable belief his arrest is necessary for collection of evidence or prevent;

- (i) destruction of evidence;
- (ii) intimidation of witnesses; or
- (iii) abscondence and/or commission of further offences.

7. In the present case, victim stated she had been raped by unknown persons. Petitioner is her grandson. She had not implicated him at all. Statement of Sujata Shaw, as discussed earlier, is hearsay and not corroborated by the mother of the petitioner. Statement of Amitabha Basuli is convincing. There was no cogent material which could be translated into legally admissible evidence which would justify the arrest of the petitioner.
8. In these circumstances, although the allegations involve a grave offence, the Investigating Agency ought to have exercised his discretion and not hastily proceeded to arrest the petitioner.
9. This Court does not appreciate the arbitrary and unwarranted arrest of the petitioner. We accordingly, record our displeasure in the matter and hold that the arrest was illegal and unwarranted.
10. It may not be out of place to note that the petitioner has not prayed for any other relief apart from being released on bail.
11. Under such circumstances, we close the proceeding after recording our displeasure with regard to the unjustified and illegal arrest made by the Investigating Officer. We warn the Investigating Officer to be more careful in future.
12. Proceeding is closed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

