

30.04.2024
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PG/sayandeep
Ct. No.1

**FMA 523 of 2024
With
CAN 1 of 2024**

**Subhash Roy
Versus
The State of West Bengal & ors.**

Mr. Soujanya Bandyopadhyay
Ms. Babita Dey

..... for the appellant

Mr. Amitesh Banerjee
Mr. Tarak Karan

.....for the State

1. After some arguments, learned counsel for the appellant seeks leave to withdraw the writ petition with liberty to urge all grounds before the learned Trial Court.
2. Since we are of the view that the contention raised by the petitioner in the writ petition cannot be adjudicated in a writ proceedings, more particularly when the criminal case is still pending and appellant is in judicial custody, therefore the prayer for withdrawing the appeal and the writ petition is granted and the appeal, writ petition and connected application are dismissed as withdrawn leaving it open to the appellant to raise all the contentions before the learned Trial Court.
3. No costs.

4. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)