

19-06-2024
Item No.14
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.12397 of 2024
Pradip Xavier Tirkey & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Mayukh Mukherjee
Ms. Aishwarya Bajaj
Mr. Kaustav Das ...for the petitioners

Mr. Biswabrata Basu Mallick, AGP
Mr. Antarikhya Basu
Mr. Sayan Ganguly ...for the State

Mr. Anirban Mitra
Mr. Priyankar Ganguly ...for respondent no.6

Report, pursuant to the last order dated May 6, 2024, filed by the SI, Special Task Force, West Bengal dated June 18, 2024 be retained with the records. A copy of the same be handed over to the learned advocate representing the petitioners.

Case diary has been produced before this court. The video footage at the time of search and seizure has also been produced and played in open court; let a copy of the video footage be retained with the records.

In the present writ petition, the petitioners have, inter alia, prayed for transferring investigation of NDPS Case No.79 of 2023 in connection Baishnabnagar P.S. Case No.542 of 2023 dated August 13, 2023 under sections 21(C)/25/29 NDPS Act to the Narcotics Control Bureau.

It has been submitted that the investigation of the said case is being proceeded in a perfunctory manner. It is alleged that the investigating officer has merely produced the video footage at the time of search and seizure of the articles, and that the entire video footage from the time of detaining of the vehicle till interception of the NDPS articles is not on record.

Learned advocate representing the State submits, upon instructions and more specifically relying upon the documents available in the case records, that all evidences against the petitioners are available.

Reliance has been placed on an order of the Hon'ble Division Bench of this court dated June 22, 2022 passed in a petition under section 439 CrPC in CRM (NDPS) No.492 of 2022 with CRM (NDPS) No.493 of 2022 (*KALU SK. @ KURAN V. STATE WITH KABIR SK. V. STATE*) and it has been submitted that the Hon'ble Division Bench laid down, inter alia, in the said case that the seizing officers would make video recording of the entire procedure unless for reasons beyond the control of the seizing officers they are unable to do so.

Submission is that the video recording has been made in accordance with the direction passed in the matter of Kalu Sk & Kabir Sk. (supra).

Upon hearing the submissions made on behalf of the respective parties and upon perusal of the materials placed, this court is not inclined to exercise jurisdiction under Article 226 of the Constitution in the instant case.

Learned advocate for the petitioners prays for a direction upon the learned trial court to take into consideration the prayers made by the petitioners in the

petition appearing at pages 50-51 (Annexure P3 to the writ petition).

It will be open for the petitioners to approach the learned trial court for necessary relief, if they are so advised.

The writ petition stands dismissed.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]