

08 03.05.2024
NB Ct. 14

WPA 12404 of 2024

Bittu Mondal & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Pratip Kr. Chatterjee,
Mr. Ranjit Mondal.
...for the petitioners.

Mr. Amitesh Banerjee Id.SSC,
Mr. Tarak Karan.
...for the State.

Report filed on behalf of the State is taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioner no.2 was elected as a member of Berhampore Panchayat Samity in the last Panchayat Election as a candidate of Indian National Congress Party. Now, he is the opposition leader in the said Panchayat Samity. He is a prime campaigner of the said political party in respect of Berhampore Lok Sabha Seat. He was arrested on 27.03.2024 in connection with the Berhampore PS Case No.415 dated 26.03.2024 under Sections 341, 324, 325, 326, 307, 506 and 34 of the Penal Code and Sections 25/27 of the Arms Act. He was granted bail on 24.04.2024, but he was not allowed to get a release. On the same date, he was shown arrested in an earlier case involving fake currency and Arms Act. He was detained in connection with Berhampore PS Case No.296 dated 28.02.2024 under Sections 489B, 489C and 34 of the Penal Code and Sections 25/27 of the Arms Act.

Learned senior standing counsel representing the State relies on the report and the case diary and submits as follows. The petitioner is a history sheeter. He has several cases against him starting from the year 2010. Out of the ten cases pending, five are murder cases. The first murder case is of 2010. So far as the case in which the petitioner has been shown arrested, there are statements of witnesses recorded under Section 161 of the Code on 13.04.2024, which take his name. Some witnesses had also made statements under Section 164 of the Code on 05.03.2024. Therefore, there is no question of false implication of the petitioner in the instant case.

It appears that the statements taking the names of the petitioner in the case in question have been recorded even under Section 164 of the Code as far back as on 5th March, 2024. Therefore, it cannot be said that for the first time on 24.04.2024, the police conjured up a ruse to falsely implicate the petitioner in the instant case.

It is a different thing that the trial Court or the Court considering a possible bail prayer would decide whether the materials appearing against him are admissible or whether some such statements are hearsay in nature or not.

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

However, the petitioner shall be at liberty to pray for bail before the appropriate Court and the Court shall not be swayed to any observation made by this Court herein.

Since the Lok Sabha Polls are to take place on 13th May, 2024, subject to any order as regards any bail prayer of the

petitioner that may be passed in the meantime, the police and the Correctional Home authorities shall take appropriate measures to have parole granted to the petitioner on usual terms for a limited period so that the petitioner can cast his vote on 13.05.2024. The petitioner shall be released sufficiently early in the morning so that he can cast his vote.

With these observations, the writ petition is disposed of.

Parties to act on the server copy of this order downloaded from the official website of this Court.

(Jay Sengupta, J.)