

09
20.06.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 15209 of 2024
CAN 1 of 2024**

**Rekha Patra
-versus
The State of West Bengal & Ors.**

**Mr. Billwadal Bhattacharyya,
Mr. Moyukh Mukherjee,
Mr. Anish Kumar Mukherjee,
Mr. Sayanta Sinha,
Ms. Sagnika Banerjee,
Mr. Shouvik Palodhi.
...For the Petitioner.**

**Mr. Amitesh Banerjee, SSC,
Mr. Swapan Banerjee,
Ms. Amrita Panja Moullick,
Mr. Debangshu Dinda.
...For the State.**

An application has been filed by the applicant seeking addition as party respondent/interested party in the instant writ petition.

The applicant has stated in the application that he was taken in custody on 2nd June, 2023 in connection with the Nazat Police Station FIR Case No. 261 of 2024 dated 1st June, 2024. An application seeking bail was moved.

As this Court in the writ petition being WPA 15209 of 2024, by order dated 3rd June, 2024, directed stay of the FIR till 5th July, 2024 or until further order whichever is earlier, the Learned Magistrate recorded that the Court does not have any jurisdiction to

entertain the application for bail filed by the applicant in the Learned Court below.

It is solely for the purpose of obtaining bail that the application for addition of party has been filed.

The petitioner relies upon an unreported order dated 30th May, 2024 passed by the Hon'ble Division Bench of this Court in CRM (DB) 1722 of 2024 in the matter of Gita Bar & Ors. with W.P.A. 14241 of 2024 in the matter of Rekha Patra & Ors. -vs- The State of West Bengal & Ors. with MAT 1131 of 2024 with CAN 1 of 2024 in the matter of Gita Bar & Ors. -vs- The State of West Bengal & Ors.

The Division Bench opined that the Learned Magistrate is lacking jurisdiction to detain the petitioners. The Court directed the Learned ACJM, Basirhat to release the petitioners on personal bond to his satisfaction, subject to further decision being passed in the writ petition.

It appears that the Learned Magistrate failed to appreciate the order that has been passed by the writ Court and misinterpreted the same. The writ Court was pleased to stay the FIR but did not pass any order for not considering the application for bail if filed by any of the accused in connection with the said case.

The Magistrate ought to have decided the application for bail on its own merits irrespective of the fact whether the said proceeding has been stayed or not. If the FIR is stayed the same does not imply that bail application in connection with the said FIR cannot be entertained. The Court ought not to keep any person in custody without considering the application for bail.

In view of the above, the jurisdictional Magistrate is directed to dispose of the pending application for bail made by the accused in accordance with law at the earliest but positively within a period of 48 hours from the date of communication of this order.

The application for addition of party stands disposed of.

The respondents are directed to file affidavit-in-opposition to the writ petition within a period of three weeks from date. Reply, if any, be filed within a fortnight thereafter.

Liberty to mention.

The interim order that is subsisting in the matter is extended till 30th September, 2024 or until further order, whichever is earlier.

(Amrita Sinha, J.)