

05
13.08.2024
S.D.
Ct. No. 26

W.P.A. (H) 48 of 2024

Sandip Paul
Vs.
The State of West Bengal & Ors.

Ms. Reshmi Ghosh
Ms. Satabdi Das
...For the petitioner
Mr. Suman Sengupta, Fr. Govt. Pleader
Ms. Priyamvada Singh
....For the State

Writ petitioner seeks issuance of writ of habeas corpus with regard to his son who went missing on February 13, 2022.

In respect of such son, a First Information Report bearing No. 61 of 2022 dated February 23, 2022 was lodged with the police. Police are yet to trace the son.

An order dated July 9, 2024 was passed in the writ petition where it was recorded that police recovered a decomposed body. D.N.A. examination was undertaken. Requisite matching did not take place. Further D.N.A. test was suggested which we permitted.

There is no pleading in the writ petition with regard to detention, far less illegal of the son of the writ petitioner by any individual, State or private.

Jurisdiction for issuance a writ of habeas corpus cannot be invoked in respect of every person who goes missing. Writ petitioner in such context is not remediless.

In the facts of the present case, writ petitioner lodged a police complaint. At best, writ petitioner can complain of police inaction and seek requisite remedies with regard to the police complaint lodged by the writ petitioner in respect of his missing son.

Essential jurisdictional fact of illegal detention is not made out in the present case.

In such circumstances, we are not minded to exercise our jurisdiction in respect of a writ of habeas corpus in the facts of the present case, any further.

This order will not prevent the writ petitioner from seeking relief from the appropriate Court.

W.P.A. (H) 48 of 2024 is disposed of accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J