

24-12-2024
Item No.5
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.29422 of 2024
Tarunno Das (minor) represented by his mother
Rupa Das
-vs-
Union of India & Ors.

Mr. Saikat Chatterjee ...for the petitioner

Mr. Asok Kumar Chakraborty, ASGI
Ms. Amrita Pandey
Mr. G. Pandey ...for the Union of India

Mr. Swapan Banerjee, AGP
Mr. Soumen Chatterjee ...for the State

1. The petitioner is a minor represented by his mother. Both are Bangladeshi nationals. Neither the petitioner nor his mother has any valid document for their stay in India.
2. The case made out in the writ petition is that the minor was brought to India for medical treatment on the strength of valid documents issued by the concerned authorities. On February 23, 2024, the petitioner and his mother were arrested and proceedings initiated against them under the Foreigners Act, 1946. Thereafter, investigation was conducted and charge-sheet has been filed. The trial is pending.
3. Learned counsel for the petitioner submits that the petitioner is currently staying in a child welfare home. Prayer has been made to permit the mother and the child to stay together.
4. It has been brought to the notice of the court that

the next date fixed by the trial court is March 11, 2025. As the next date before the learned trial court is nearly three months to go, accordingly, it has been prayed that the mother and her son may be permitted to stay close to each other.

5. Heard submissions made on behalf of all the parties. The court is not satisfied with the documents annexed with the writ petition in support of their stay in India. Learned trial court is in seisin of the matter. Accordingly, the court grants leave to the petitioner to approach the learned trial judge for consideration of their prayer to permit the petitioner to stay with his mother.
6. In the event such an application is filed, the learned trial judge is requested to consider the same in accordance with law, keeping in mind the minor age of the son and the fact that he is suffering from medical ailment which may require the care and assistance of the mother. Endeavour shall be taken to dispose of the prayer of the petitioner within a fortnight from the date of filing of such application.
7. It is made clear that the court is not expressing any opinion with regard to the merits of the prayer of the petitioner and that the learned trial court will be at liberty to decide the petitioner's prayer on its merits.
8. Learned advocate-on-record for the petitioner is directed to expunge the designation of the learned Additional Solicitor General from the array of the first respondent in the cause title of the writ petition.
9. Since no affidavit is called for, the allegations contained in the writ petition are deemed not to have been admitted by the respondents.

10. The writ petition stands thus disposed of.
11. Affidavit of service filed by the petitioner and the report filed by the Officer-in-Charge of Dhantala police station be taken on record.
12. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
13. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]