

January 29, 2024
AD 10
Ct. No.14
SG

WPA 28301 of 2023

XXXX

vs.

The State of West Bengal and others

Mr. Arkadyuti Pahari
Mr. Abdul Kalam Chowdhury
... for the petitioner

Mr. Suman Ghosh
Ms. Munmun Tiwary
... for the State

Mr. Rajdeep Majumder
Mr. Moyukh Mukherjee
Mr. Pritam Roy
Mr. Soewel Bhattacharjee
Ms. Tripurna Roy
... for the respondent No.4

Supplementary affidavit filed by the petitioner is taken on record.

Report filed by the State is also taken on record.

Learned counsel appearing for the petitioner submits as follows. The petitioner is the mother of the minor victim of a sexual assault. The private respondent is a youth leader belonging to the ruling political dispensation. After a few days of the alleged incident, the accused was granted bail on stringent conditions, inter alia, not to enter the district except for attending court or for investigation. He has been violating these conditions. On one occasion, he set fire in front of the petitioner's house and broke CCTV camera. Complaints were made, but no effective steps were taken by the police. This

encouraged the accused to continue harassing and intimidating the petitioner and her family members. There are constant threat the petitioner to withdraw the complaint. A complaint has been filed before this court seeking cancellation of bail and the same is pending. By an order dated 20.12.2023, the State was directed to keep a vigil at the locale and ensure that no breach of peace takes place. The surveillance was to include frequent visits by police patrol. But, such order has been violated and the accused has committed offences, which were not entertained by the local police.

Learned counsel appearing for the respondent No.4 denies the allegations and submits that the main case was based on a relationship between two consenting parties turning sour. One allegation made by the petitioner was that the accused committed arson in her house. A final report was submitted in this, which was not challenged by the petitioner. Despite directions passed by Courts of law, the victim is not concluding her deposition before the trial court and is unnecessarily dragging the matter. The accused/ respondent has gone to certain places in the concerned jurisdiction only in accordance with the liberty granted by the Division Bench of this Court. An application for relaxation of condition of bail is pending.

Learned counsel appearing for the State relies on the report and submits that the complaints made by the petitioner and her family members have been attended to.

One FIR has registered being Contai Police Station Case No.598 dated 19.12.2023. The police are regularly sending RT vehicles to visit the area. In case of another FIR concerning allegation of arson, a final report has been submitted after investigation.

It appears that the accused had been debarred from entering the concerned jurisdiction except for attending court or for investigation. It is reported that subsequently liberty was granted by the Division Bench to the accused to go to such places on certain occasions.

It also appears that on the complaints of the petitioner, at least two FIRs were registered. One ended in a charge-sheet and the other in a final report.

Let the police authorities consider the complaints made by the petitioner for registering FIRs as to whether a cognizable case is made out or not. The police shall be at liberty to take appropriate steps in accordance with law.

If the petitioner is aggrieved by action of the police in not registering FIR thereafter and believes that a cognizable case is still made out, she shall be at liberty to act in terms of the directions passed by the Hon'ble Apex Court in *Aleque Padamsee's case* reported at (2007) 6 SCC 171.

The police shall keep a sharp vigil at the locale and ensure that no harm is done to the petitioner or her family members. As directed earlier, the surveillance shall include frequent visits by police patrol.

In the event any untoward incident occurs or is apprehended by the petitioner, the petitioner shall be at liberty to approach the Officer-in-Charge of Contai police Station who shall then act in accordance with law.

With these observations, the writ petition is disposed of.

Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

Parties shall act on a server copy downloaded from the official website of this Court.

[Jay Sengupta, J.]