

December 26, 2024
(Vacation Bench)
ARDR/S.D (09)

W.P.A. 30805 of 2024

**Sk. Ibrahimk
Vs.
The State of West Bengal & Ors.**

Adv. Mr. S.P. Dalapati,
Adv. Mr. Pritam Chowdhury,
Adv. Mr. Asumdipta Santra
.....for the Petitioner

Adv. Mr. Swapan Banerjee, Ld. A.G.P.,
Adv. Mr. Diptendu Narayan Banerjee
...for the State.

Affidavit service filed on behalf of the petitioner and the report filed on behalf of the State are taken on record.

This writ petition has been filed at the behest of the writ petitioner with a prayer for directing upon the respondent police authorities to open the padlocks of the hotel and allow the petitioner to run the said hotel immediately.

It is submitted by the learned advocate on behalf of the petitioner that on 7.12.2024, the police authorities raided the hotel of the writ petitioner and arrested some boarders with Manager. On the incident, a FIR was lodged under the provisions of the Immoral Trafficking Act. A prayer was made before the learned Trial Court by the concerned Investigating Officer of the case on 8.12.2024 with a prayer for sealing the hotel after seizure. The said prayer was taken into consideration by the learned Trial Court and held that the said prayer can be considered after issuing the notice to the actual owner

of the hotel. The report and the documents as made before the Trial Court do not show the name of the actual owner of the hotel.

It is said by the learned advocate of the writ petitioner that despite no order is passed in respect of the prayer made by the Investigating Officer dated 8.12.2024, the police authorities put padlock on the hotel in which the alleged incident took place.

The attention of this Court is drawn to a report submitted by the Officer-in-Charge, Frezerganj Coastal Police Station, Sundarban Police District. It is said by the learned advocate that in the said report it is specifically stated that if the actual owner of the said hotel comes before the police station with proper documents, then the said hotel may be unlocked to the owner.

It appears from the order dated 10.12.2024 that the prayer was made by the concerned Investigating Officer of the case for sealing the hotel after seizure but as the name of the actual owner of the hotel does not appear from the documents submitted on behalf of the police authorities, the same was not entertained by the Trial Court and it was held that the said application may be disposed of if the document reflects the name of the actual owner of the hotel concerned.

When the prayer submitted by the concerned Investigating Officer, has not entertained or no specific direction was passed by the learned Trial Court to put

padlock on hotel on the ground of non availability of the name of the actual owner, despite that the police authorities put padlock on the said hotel which they cannot do in any occasion.

Today, a report is submitted on behalf of the concerned Officer-in-Charge before the Court by stating that if the actual owner of the hotel concerned comes with proper documents, then it may be unlocked to the owner. When the application is pending before the learned Trial Court and the view has been taken by the Court that the documents and the report do not show the actual name of the owner of the hotel and at this stage no order can be passed by entertaining the application filed by the concerned Investigating Officer of the case, then the police authorities cannot put any padlock in the hotel in absence of any specific direction of the Trial Court. It is said by the learned advocate for the writ petitioner that he is the actual owner of the said hotel and he has documents to show regarding his claim of ownership of the hotel.

Accordingly, the respondent no. 4/Circle Inspector of Police, Namkhana Circle, Sunderban Police District is hereby directed to open the padlock of the hotel after satisfying himself about the ownership of the said hotel. The petitioner is directed to produce all the relevant documents before the respondent no. 4. The application made by the Investigating Officer dated 8.12.2024 before

the Trial Court is to be disposed of by the learned Trial Court according to law within three weeks from this date.

The respondent no. 4 is directed to submit his compliance report in terms of the order of this Court before the Trial Court on the date fixed for hearing.

Accordingly, W.P.A. 30805 of 2024 is disposed of without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Prasenjit Biswas, J.)