

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

41 04.9.2024
Sc Ct. no.2

WPA 1847 OF 2024

Suren Roy

Vs.

The State of West Bengal & Ors.

Mr. Jaydeep Kanta Bhowmik
Mr. Sayantan Bhowmik
Ms. Sayantani Das.

....For the Petitioner

Mr. Bedashruti Bose
Mr. Sumit Kumar.

....For the Respondents
State

Affidavit-of-service, filed in Court today, is taken on record.

Relying upon the **Voter I.D. Card at page 18** to the writ petition Mr. Jaydeep Kanta Bhowmik, learned advocate appearing for the petitioner submits that, the petitioner is named as **Suren Roy** son of **Dakhali Ray**, resident of **192, School Para Uttar Khal Para Mal, P.S. – Malbazar, District - Jalpaiguri West Bengal**. Then he refers to the chargesheet alleged to have been issued against the petitioner appearing at **pages 13 to 15** to the petition wherefrom it appears that, the name of the alleged accused is also **Suren Roy** but the father's name and address are different. He then refers to

the order of the jurisdictional criminal court dated **June 27, 2023 at page 17** to the writ petition wherefrom it appears that, direction has been made for issuance of proclamation and attachment of Warrant in the name of one **Suren Roy** but he is not the writ petitioner herein according to him. The police is in the process to arrest the petitioner.

Mr. Sumit Kumar learned State counsel with Ms. Bedashruti Bose, learned State counsel appearing for the respondents place a police report dated **September 2, 2024**, issued under the signature of the **Officer-in-Charge, Kranti Out Post, Malbazar Police Station, Jalpaiguri**, the same is taken on record. The report shows that, the complainant had identified the writ petitioner as the accused.

Be that as it may, considering the disputes raised by the petitioner and considering the provisions laid down under **Article 21** of the Constitution of India this Court directs as follows :

- i) The petitioner shall take out a proper application before the jurisdictional criminal Court where the trial is pending contending his contention as contended in the writ petition positively within a period of **two working days** from date. Such application shall not

travel beyond the case made out in this writ petition ;

- ii) upon receiving such application from the petitioner, the jurisdictional criminal court shall decide the same positively within a period of **seven working days** from the date of receiving such application after granting an opportunity of hearing to the petitioner and by passing a reasoned order ;
- iii) in the meantime, the petitioner shall record his presence with proper identification document before the **Malbazar Police Station every day by 10 O' clock in the morning ;**
- iv) the petitioner shall **personally attend the hearing** before the jurisdictional criminal court **every day** whenever the application of the petitioner shall be taken up for consideration and **record his personal appearance** before the jurisdictional criminal court.

The operation of the said order of the jurisdictional criminal court dated **June 27, 2023** at **page 17** to this writ petition shall remain **stayed till the reasoned order is passed** by the

jurisdictional criminal court on the application to be filed by the petitioner.

In the event, the reasoned order goes against the petitioner, then the jurisdictional police authority shall be free to take all necessary steps in accordance with law without any fetter.

This order shall not create any right or equity in favour of the petitioner and the jurisdictional criminal court shall decide the application of the petitioner in accordance with law and on its own merit and without being influenced by any observation made herein.

It is further made clear that, if the petitioner shall not file any application as directed herein, the police authority shall be free to take step in accordance with law forthwith.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

It is made clear that, this Court has not gone into the merits of the writ petition and the petitioner shall be at liberty to take all the points, taken in this writ petition, before the jurisdictional criminal court.

With the above observations and directions this writ petition, **WPA 1847 of 2024** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)