

22.04.2025
Court No. 35
Item No.103
Rakib

W.P.A. 7422 of 2025

**Anup Malik @ Anup Kumar Malik
@ Buro Malik.
VS
The State of West Bengal & Ors.**

Mr. Niladri Sekhar Ghosh,
Ms. Laboni Sikder,
Mr. Souvik Dey.
... for the Petitioner.

Mr. Avik Ghatak,
Ms. Afreen Begum.
...for respondent no.5.

Mr. Sanjib Das,
Mr. Madhusudan Mukhopadhyay.
...for respondent nos. 6 to 10.
Mrs. Jhuma Chakraborty, Ld. Sr. Govt. Adv.,
Ms. Munmun Tiwari.
...for State.

Affidavit-of-service filed by the petitioner be kept
with the record.

Petitioner is aggrieved by the action of the police
authorities as petitioner claims he was forced to sign a
document which is a settlement agreement on or about
10.12.2024. To that effect petitioner being aggrieved by
way of an application under Section 175(3) of the BNSS
approached the learned ACJM as the local police
authorities refused to act on the information furnished by
the informant. Learned ACJM, Arambagh on 12.02.2025
on receipt of the application under Section 175(3) of the
BNSS called for a report from Inspector-in-Charge,
Arambagh Police Station. Surprisingly, the Inspector-in-
Charge, Arambagh Police Station submitted a report
which reflected that Arambagh Police Station case no.

101/2025 dated 27.02.2025 has already been registered for investigation. Learned advocate submits that purposely the said case was registered incorporating diluted sections of the BNS, 2023, thereby providing an escaping route to the accused persons. Additionally it has been submitted that the contents in the application under Section 175(3) of BNSS are distinguishable from that of the FIR which has been registered by the Arambagh Police Station.

State has submitted a report. Report reflects that after the registration of case against the Pradhan of Harinkhola-I, Gram Panchayat and five others, the FIR named accused persons surrendered before the ACJM, Arambagh and they were granted bail. It is also reflected that the letter of complaint dated 02.02.2025 was treated as the foundation of the FIR registered.

The grievance of the petitioner as complained of relates to the nature of the offences incorporated in the FIR. However, I am of the view that since the FIR has been registered the Jurisdictional Magistrate is in seisin of the issue. As such any deviation in the process of the same should be canvassed either before the Magistrate or before the Superior Courts having jurisdiction over the Magistrate. This Court under Article 226 of the Constitution of India will not enter into the domain where statutory powers can be exercised under the relevant provisions of law.

Mr. Ghatak, learned advocate appears on behalf of the respondent no.5, denies and disputes the accusations made in the writ petition.

Learned advocate appearing for the respondent nos. 6 to 10 is present and submits that the private respondents have been falsely implicated without any factual foundation.

In view of the nature of accusations in the writ petition and the reliefs claimed for so far as the documents which has been referred to as a settlement agreement, if the petitioner is aggrieved by that, petitioner would be at liberty to approach the Civil Court for appropriate relief. In case the said document according to the petitioner was obtained by way of a coercion, so far as the addition of sections are concerned the same would if materials surface in course of the investigation, the police authorities would be at liberty to incorporate the same in accordance with law.

In case the petitioner is faced with inconveniences/threats at the behest of the private respondents an application be taken out before the learned ACJM, Arambagh who will call for a Threat Perception Report and pass necessary directions under the Witness Protection Scheme, 2018 as the petitioner happens to be a necessary witness in the investigation proceeded with by the concerned police station.

With the aforesaid observations WPA 7422 of 2025 is disposed of.

Report so submitted by the State be kept with the record.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)