

D/L 66
10.07.2025
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ct.no.35

W.P.A.12537 of 2025

**Glen Earnest Odath
Versus
The State of West Bengal & Ors.**

Mr. Santanu Chatterjee
Mr. Rajendra Kumar.
...for the petitioner.

Mr. Rajarshi Basu
Mr. Ananda Dulal Sarkar.
...for the State-respondents.

Petitioner complains that even if the entirety of the facts of the complaint which was advanced to the Officer-in-Charge, Narayanpur Police Station is accepted to be truth, no case is made out. To that effect, firstly, learned advocate points out that the incident complained of is of 12th October, 2024. The same came to the knowledge of the father of the victim on 24th February, 2025 and the information was furnished with Narayanpur Police Station on 25th March, 2025. By referring to documents, petitioner intended to substantiate that the dates which have been referred to in the FIR palpably reflects that the petitioner was never available and was at a different location completely. It has been contended that since the allegations in the FIR at the face of it fail to make

out any case and is not believable and/or acceptable the interference of this Court is warranted.

Learned advocate for State has submitted a report. Report reflects that the investigating agency on conclusion of investigation has already submitted charge-sheet under the relevant provisions of Sections 8/12 read with Section 4 of the POCSO Act.

The date of offence which is the pivotal issue on which the petitioner intends to advance his cause of action, I am of the view that the same has been substantiated in the report submitted by the State.

Having regard to the fact that the investigation has already been concluded and the nature of issues which have been canvassed are plea of alibi, it would be upon for the petitioner to prove the same strictly before a court of law considering the fact that the presumption under the POCSO are such that if the medical reports are corroborating to the statement, the court has to presume certain set of circumstances at least at the stage of pre-consideration of charge.

In view of the aforesaid, petitioner is granted liberty to take up the issue at the stage of consideration of charges. Learned special court will consider the same and dispose of the same in accordance with law.

With the aforesaid observations, WPA 12537 of 2025 is disposed of.

There will be no order as to costs.

Report submitted be returned to the learned advocate appearing for the State.

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

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

(Tirthankar Ghosh, J.)