

Form No.J(1)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

W.P.A. No. 17344 OF 2025

Sirajul Sheikh & Sk

versus

The State of West Bengal & Ors.

For the Petitioner : Mr. Rabiul Islam
Ms. Afreen Begum
Mr. Masooq Rahman

For the State : Mr. Suman Ghosh
Mr. Diddhartha Ghosh

Heard On : 13.08.2025.

Judgement On : 13.08.2025.

Tirthankar Ghosh, J. :

Petitioner has approached this Court challenging the continuation of Saktipur Police Station case no. 215/2024 dated 31.08.2024. The main contention of the petitioner was that he has been illegally, mala fide, arbitrarily vindicated by the police authorities and the continuation of the proceedings were with an ulterior object of wrecking vengeance, consequent to

which the FIR was registered and he as such has been falsely implicated in connection with the instant case. Petitioner as such prayed for quashing of the proceedings and/or transfer of the investigation to the CID, West Bengal.

Another issue which has been canvassed by the petitioner is that the petitioner earlier was a victim of bomb blast injury for which his right leg was amputated on or about 29.06.2024 and has been arrested in spite of being under treatment. Attention of the Court was drawn to the fact that in respect of the said case for which the petitioner sustained injury Saktipur Police Station case no. 171/24 dated 20.06.2024 was registered for investigation.

Mr. Ghosh, learned advocate appearing on behalf of the State has produced the Case Diary of Saktipur Police Station case no. 215/24 which was registered for investigation under Sections 288/118/3(5) of BNS, 2023, Section 9(b) of I.E. Act and Section 25/27 of Arms Act. Attention of the Court was drawn to the letter of complaint which is the basis of the registration of the FIR and it was emphasized that the present case has been initiated on the basis of a suo moto complaint by Sub-Inspector of Police Amal Kumar Chandra, attached to Saktipur Police Station, Murshidabad Police District. The contents of the written complaint which is the basis of the FIR is set out as follows:

“.....I, S.I Amal Kumar Chandra of Saktipur PS, Murshidabad PD do hereby lodged a written complaint against unknown persons to the effect that today on 30.08.2024 at about 22:05 hrs, received information at P.S that an explosion took place at the village Kajipara at near the outer porifera of the house of Mostakim Khan S/O Absar

Knan of village Kajipara. Thereafter the miscreant also threw fire in the open air from their arms and also uttering filthy languages to the villagers telling the languages as “যে সামনে আসবে তাকেই গুলি করে দেবে”. The information has been diarized vide Saktipur PS GDE No-1271 dated. 30.08.2024 and as per instruction of O/C Saktipur PS myself along with force i.e. HG/87 Suroj Sardar and HG/205 Toton Chowdhury along with investigation kit box proceed to that place of occurrence to work out the information by Govt. Vehicle No WB42S/1496 having G.D.E No-1272 dated 30.08.2024. At about 22:45 hrs, myself along with force reached at the village Kajipara near the house of Mustakim Khan under Saktipur P.S and as per source information could be identified the place of occurrence. After arriving at Kazipara village and found that the above noted seized articles lying on the place of occurrence smelling gun power. I tried to contact the local people but nobody present there. So I seized the articles (1) One broken pieces of iron with smell of explosive in presence of police personnel. I have seized above mentioned article under proper seizure list duly signed by the accompany police persons, sealed and labeled. The seizure was done under videography. The seizure was done in between 22:55 hrs to 23:05 hrs. After that caused thorough enquiry in the local area but no information has been received as the local villagers were so afraid about the criminals and the criminals are so danger and desperate in nature.

During preliminary enquiry it is ascertained that the above noted unknown person hurled bomb to create with some ulterior motive.”

Learned advocate for the State has drawn the attention of the Court to the various seizure lists pursuant to which there were seizures in respect of

remnants of explosives as well as the arms and ammunitions which were recovered.

I find that a statement of the petitioner Sirajul Sk which was recorded on 06.09.2024 pursuant to which one country made improvised 7mm pipe gun having butt along with one empty magazine being recovered and the same was at the instance of the petitioner leading to the place of recovery.

The provisions of Section 27 of the Indian Evidence Act and/or Section 23 of the BSA, 2023 reads as follows:

27. How much of information received from accused may be proved.—*Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.*

In view of the recovery having been made of fire arms pursuant to the statement made by the present petitioner and the case is under the provisions of Arms Act, I am of the opinion that at this stage the innocence or the claim of false implication of the petitioner being vindicated for any sort of vendetta is ruled out.

There are attending circumstances by way of statements being recorded under Section 180 of the BNSS. The FSL Reports also substantiate relating to

the explosive substances as well as the seized arms and ammunitions. Records reflect that the investigation of the case is still in progress.

Having considered the stage of the investigation, the materials collected by the investigating agency and the parameters set out by the Hon'ble Supreme Court in State of Haryana –Vs. – Bhajan Lal, 1992 Supp (1) SCC 335 paragraph 102 which reads as follows:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

I am of the view that no interference is called for by this Court.

Accordingly, WPA 17344 of 2025 is dismissed.

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

Case Diary be returned to the learned advocate appearing for the State.

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 the judgement, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)