

D/L 12
27.02.2025
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ct.no.35

W.P.A.28047 of 2024

**Sweta Ghosh
Versus
The State of West Bengal & Ors.**

Mr. Jayanta Narayan Chatterjee
Mrs. Moumita Pandit
Ms. Jayashree Patra
Ms. Ritushre Banerjee
Ms. Pritha Sinha
Mr. Bhaskar Mondal.
...for the petitioner.

Mr. Jayanta Samanta
Mr. Tamal Taru Panda.
...for the State-respondents.

Ms. Sananda Bhattacharyya.
...for the private respondent nos.5 to 7.

Petitioner approached this Court being aggrieved by the inaction of the police authorities and the reluctant steps taken in progressing with the investigation of the case. At the relevant point of time when the investigation commenced, there were lack of documents also which were subsequently collected by the investigating agency from the Ranaghat Sub-Divisional Hospital, from the Monorama Hospitex as well as Kothari Medical Centre. Subsequently, a statement under Section 164 of the Code of Criminal Procedure of the victim was also recorded. The cumulative effect of the same led to an irresistible conclusion by the investigating agency that an offence

under Sections 326A/307 of the Indian Penal Code has been made out and accordingly the police authorities prayed for addition of the said sections which was allowed by the jurisdictional Magistrate.

The grievance again of the petitioner is that in between the collection of the materials by the investigating agency from the concerned medical institutes/hospitals, the accused persons surrendered before the court and they were granted bail and as at the relevant point of time Sections 326A/307 of the Indian Penal Code were not there, the learned court while granting the bail application did not have the opportunity to assess regarding the gravity of the offence.

Presently, the circumstances have changed as materials have been collected by the prosecution/investigating agency. The petitioner would be at liberty to challenge such order of bail because of the changed circumstances before the jurisdictional Magistrate and/or any other higher forum.

So far as the charge-sheet is concerned, I find that the materials have been collected by the investigating agency, the accused persons have also appeared before the court and so the jurisdictional

Magistrate would apply his wisdom in proceeding with the case in accordance with law.

Learned senior advocate appearing for the petitioner has expressed his anxiety regarding the victim's appearance before the learned trial court in course of the trial as she is a vital witness in the prosecution of the present case.

In view of the victim being specially challenged, the prosecuting authorities would provide logistic support on the dates so fixed for examination of the victim before the learned trial court. Since number of witnesses are involved in the present case and the petitioner has already expressed her anguish, I direct the learned Magistrate that if an application is filed for necessary protection, a threat perception report be called for and the learned Magistrate on an assessment of the threat perception report would apply the provisions of Witness Protection Scheme, 2018.

With the aforesaid observations, WPA 28047 of 2024 is disposed of.

There will be no order as to costs.

The documents and the case diary submitted by the State 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.)