

55 15.01.2025

G.S.Das

Shibani Mondal
-Vs-
The State of West Bengal & Ors.

Mr. Partha Sarathi Mondal
... for the Petitioner(s)
Mr. Susovan Sengupta, Id. Sr. Govt. Adv.
Mr. Tarak Karan
... for the State-respondent(s)

The petitioner has approached this Court as Sagar P.S. Case No. 90 of 2024 dated 25.4.2024 was registered for investigation under the relevant provisions of the IPC.

There are two accusations against the police authorities: *first*, the police authorities not arresting the accused and, *secondly*, she is being pressurized for withdrawing the FIR.

State has submitted a report
which reflects that, initially, Sagar P.S.
Case No. 100 of 2024 dated 02.5.2024

was registered for investigation on the basis of a complaint filed by one Dr. Ansuman Bose. The petitioner and her husband surrendered and they were released on bail.

There was an earlier complaint at the behest of the petitioner which was registered as Sagar P.S. Case no. 90 of 2024 dated 25.4.2024. The said case is under investigation.

The contentions of the police authorities are that they have not received any complaint alleging that the accused persons have threatened the petitioner to withdraw the case.

Prima facie, it reflects that such complaint was sent to the Superintendent of Police. The police authorities are directed to enquire regarding the correctness and/or veracity of the

accusations made.

So far as the issue relating to arrest which is also the grievance of the petitioner, I am of the opinion that arrest is a prerogative of the investigating agency. It would be for the investigating officer to decide whether to arrest or not to arrest a person. The power to arrest and the exercise of power are two different concepts. The police authorities are bound to exercise such power by reasonably applying their discretion. No arrest, should be made as a matter of course, by the police authorities.

The report also reflects that there is a written declaration submitted by the petitioner.

Having considered the same, the investigating officer will consult the senior officers of the police authorities before

arriving at his final opinion.

With the aforesaid observations,
WPA 30395 of 2024 is disposed of.

Pending application(s), if any, is
also disposed of.

Report so submitted be kept with
the record.

Parties to act on a server copy of
this order duly collected from the official
website of the Hon'ble High Court, Calcutta.

(Tirthankar Ghosh, J.)