

06.02.2025

Item No.39
Ct. No.35
dc.

W.P.A. 61 of 2025

**Santosh Sarkar
versus
The State of West Bengal & Ors.**

Mrs. Priyanka Tibrewal,
Mr. Koustav Lal Mukherjee ... For the Petitioner.

Mr. Suman Sengupta,
Mr. Sambuddha Dutta ... For the State.

Mr. Kunal Ganguly ... For the Respondent Nos.5 & 10.

Mr. Sauradeep Dutta,
Mr. Himadree Ghosh ... For the Respondent Nos. 6 & 7.

Ms. Puja Goswami ... For the Respondent Nos. 8 & 9.

Memo of Evidence filed on behalf of the State
be kept with the record.

The petitioner is aggrieved by the progress of investigation and the manner in which the police authorities are proceeding with the investigation is not inspiring confidence as the information which has been furnished to the investigating authorities has not been dealt with. So far as the reply which was given by the petitioner pursuant to the receipt of notice under Section 91 of the Code of Criminal Procedure is concerned, the same has also not been properly dealt with by the investigating agency. In fact, the petitioner has also claimed that he is being chased by goons which have made him insecure and his suspicion is that the said situation is being created for the purposes of Asansol North P.S. Case No. 448 of 2023 dated 21.10.2023 which is

pending. In spite of informing the police authorities, no protection has been extended to the petitioner.

State has submitted the Memo of Evidence as also the case diary.

Learned advocate appearing for the State has been directed to consider the two issues particularly with regard to recording of statement of the police officer concerned which is only in the form of an entry in the case diary and not in the form of evidence which can be substantiated in court. To that extent, the investigating officer will record the statement of the concerned police officer. Secondly, so far as one of the respondents is concerned, there has been a specific accusation. I do not find any materials which the police authorities have acted upon as the name was divulged by the petitioner within a close proximity of time from the date of registration of the case. The police authorities are continuing their investigation. They would take into account the same before arriving at their final opinion in respect of the case.

As the learned advocate for the petitioner has expressed that in spite of informing the police authorities, no assistance has been rendered to ensure security of the petitioner who has set the law into motion, I direct that the petitioner would take out an application before the learned Chief Judicial Magistrate, Asansol. The learned Chief

Judicial Magistrate, Asansol will take into account the provisions of the Witness Protection Scheme, 2018. As the said Scheme has not been formulated by the State till date, the central provisions and/or the guidelines set out in the judgement of ***Mahendra Chawla and others Vs. Union of India and others*** reported in (2019) 14 SCC 615 be taken into account by the learned Chief Judicial Magistrate, Asansol. A threat perception report be called for from the Officer-in-Charge of the concerned police station. The police authorities within 48 hours of the direction by the learned Chief Judicial Magistrate, Asansol will submit their threat perception report. The learned Chief Judicial Magistrate will accordingly pass directions for providing necessary security as has been enshrined in the judgement of the Hon'ble Supreme Court or the Witness Protection Scheme, 2018.

As the investigation is continuing since October 2023 and almost 15 months are over, I direct the Deputy Commissioner of Police in-charge of Asansol North Police Station would monitor the investigation of the case so that the same can be taken to its logical conclusion within a reasonable period of time.

With the aforesaid observations, the writ petition being WPA 61 of 2025 is disposed of.

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

There will be no order as to costs.

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.)