

12.06.2025

Sl. No.8

akd

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

W. P. A. 1231 of 2025

[Buli Barman -Vs- The Union of India & Ors.]

Mr. Sayan De
Ms. Esha Acharya
Mr. Rimik Chakraborty
... .. for the petitioner

Mr. Sudipto Kumar Mazumdar .. Id. D.S.G.I.
Mr. Ajoy Kumar Singhanian
Mr. Sourab Kar
... for respondent nos.1, 2 & 4
[Union of India]

Ms. Bedashruti Bose
... .. for the State

1. Affidavit-of-service filed in court today is taken on record.
2. The petitioner has preferred the present writ petition being aggrieved by the inaction on the part of the respondent nos. 1 and 2 in failing to take any steps on the representations filed by the petitioner on 08.05.2025 and 09.05.2025 respectively (Annexure 'P-7' to the writ petition).
3. It is the case of the petitioner that her husband viz. Rajen Barman @ Dulal was apprehended by a police team from Area Police Office, Kakarvitta, Dist. Jhapa, Nepal and is facing prosecution in Nepal under the provisions of the Narcotic Drugs Control Act, 2033 (1976 AD). The petitioner filed various representations to the respondent no.1 for taking steps to bring back her husband to India so that he can face trial in India. It is her allegation that her husband had been illegally arrested due to some conspiracy.

4. Learned Deputy Solicitor General of India submits that the petitioner had earlier filed a *Habeas Corpus* writ petition being WPA (H) 2 of 2025, wherein an order had been passed on 29.04.2025. The said order records that the petitioner's husband was arrested in Nepal and was produced before the Jhapa District Court on 08.04.2025 in connection with possession of suspected brown sugar. He further submits that the petitioner's husband is being prosecuted in Nepal under the provisions of the Narcotic Drugs Control Act, 2033 (1976 AD). Learned Deputy Solicitor General of India further contends that since the offence was allegedly committed on Nepalese soil, the petitioner's husband cannot be extradited to India for the purpose of trial for an act committed on foreign soil.

5. This Court has heard the arguments advanced by the respective parties and had examined the materials on record.

6. The allegation against the petitioner's husband is that he had committed crime within the territory of Nepal. Consequently, he was arrested by the Nepal police and is facing trial before a competent court in Nepal under the provisions of the Narcotic Drugs Control Act, 2033 (1976 AD).

7. In view thereof, this Court is not inclined to exercise its discretionary jurisdiction under Article 226 of the Constitution of India, as no effective direction can be issued to the Government of India to secure the repatriation of a person who is being lawfully prosecuted before a foreign court for an offence committed under the Nepal Government.

8. In view of the aforesaid facts, the present writ petition is dismissed.

9. There shall be no order as to costs.

10. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

11. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)