

In The High Court at Calcutta
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 11150 OF 2026

**SANKAR PRASAD SINGH @ SANKAR SINGH
VS.**

THE STATE OF WEST BENGAL AND OTHERS

.....

Mr. Kanishk Sinha, Adv. (*Via VC*)

...for the Petitioner

1. Matter is taken up for consideration in presence of the learned advocate, who appears on virtual mode, representing the petitioner who prays for direction upon the Court below for expediting trial in connection with the criminal prosecution.
2. Notice of this Court has been drawn to an order dated 3rd December, 2025 annexed to this writ petition passed by a co-ordinate Bench on a bail application under Section 439 of the Code of Criminal Procedure, 1973 corresponding to Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.
3. On perusal of the order dated 3rd December, 2025, it appears that the co-ordinate Bench while dismissing the bail application made observation so that prosecution may take steps in connection with the trial in the next six (6) months for examining at least seven witnesses.
4. By instituting the present writ petition, petitioner has prayed for direction in effect which would expedite the criminal trial by examining witnesses who are to depose from the prosecution side.
5. Since trial has already started and witnesses are being examined, present writ petition which is filed under Article 226 of the Constitution of India is not maintainable; in this regard reliance is placed on the judgment of the Hon'ble Supreme Court reported in **2024 SCC OnLine SC 5761 (Neeta Singh and Others vs. State of Uttar Pradesh and Others)**.

6. As per paragraph 3 of ***Neeta Singh*** (*supra*) settled legal position is that the issue entirely comes under discretion of a High Court whether to interfere or not when other remedies are available. It was further observed in paragraph 3 that if during pendency of a writ petition under Article 226 of the Constitution before a High Court where an FIR is challenged, investigation completed and charge-sheet filed, in pursuance whereof the competent criminal court takes cognizance of the offence, the Court would be disabled in proceeding with the writ petition owing to the judicial order having intervened.
7. In this regard Hon'ble Supreme Court relied upon another judgment of the Hon'ble Supreme Court reported in **(2015) 5 SCC 423 (*Radhey Shyam vs. Chhabi Nath*)** wherein it was held that judicial orders of the Civil Court are not amenable to writ jurisdiction under Article 226 of the Constitution and the jurisdiction under Article 227 is distinct from jurisdiction under Article 226.
8. It was also enunciated by the Hon'ble Supreme Court in paragraph 3 of ***Neeta Singh*** (*supra*) that challenge to judicial orders could lie by way of an appeal or a revision or under Article 227 of the Constitution and not by way of a writ under Articles 226 and 32 of the Constitution.
9. Since in ***Radhey Shyam*** (*supra*) judicial orders passed by civil courts were dealt with, it was succinctly held in paragraph 5 of ***Neeta Singh*** (*supra*) that there cannot be a different standard for judicial orders passed by criminal courts. If judicial orders passed by a civil court cannot be challenged in a writ under Article 226 of the Constitution, *a fortiori*, a judicial order passed by a criminal court cannot also be challenged in a writ under Article 226 of the Constitution.
10. Aforesaid observations were made by the Hon'ble Supreme Court in ***Neeta Singh*** (*supra*) considering cognizance of offence taken by learned Magistrate.

11. In the present case, it appears from the order passed by the co-ordinate Bench on 3rd December, 2025 while dismissing bail application under Section 439 of Cr.P.C. that trial already started in connection with the criminal prosecution.
12. Therefore, writ petition under Article 226 is not maintainable.
13. Hence, writ petition stands dismissed.
14. However, petitioner shall be at liberty to approach the appropriate forum in pursuit of remedy.
15. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(SAUGATA BHATTACHARYYA, J.)