

Form No. J(2)

Item No. DL / 23

RKD – A.R.(CT)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
(Appellate Side)

W.P.A. NO 13381 OF 2026

Tarun Kumar Maity

-Vs-

The State of West Bengal & Ors.

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioner : Mr. Kishore Datta,
Mr. Avik Ghatak,
Mr. Ratikanta Pal,
Mr. Sagnik Mukherjee,
Ms. Deblina Ghosh

For the State : Mr. Suryaneel Das,
Ms. Anita Kundu,
Ms. Sumita Sarkar

Hearing concluded on : 19.06.2026

Judgment on : 19.06.2026

SAUGATA BHATTACHARYYA, J.:

1. By presenting this writ petition, *inter alia*, petitioner has prayed for quashing of criminal prosecution being Egra Police Station Case No.292/2026 dated 26th May, 2026 under Sections 303(2)/317(2) of BNS, 2023.

2. Mr. Datta, learned senior advocate representing the petitioner submits that though as on date no criminal prosecution is subsisting against the petitioner but petitioner apprehends compliance of notices under Sections 179/94 of BNSS, 2023 may implicate the petitioner in the aforesaid criminal prosecution or any separate criminal prosecution which prompts the petitioner to approach this Court with the present writ petition seeking necessary direction for his protection.
3. In support of the case made out in the writ petition Memorandum dated 13th February, 2026 issued by the Sub-Divisional Officer, Egra, Purba Medinipur and Memorandum dated 2nd June, 2026 issued by the Senior Special Secretary to the Government of West Bengal, Department of Disaster Management & Civil Defence are relied upon to justify recovery of relief materials from the school premises and petitioner is the Headmaster of the said school.
4. It is argued on behalf of the petitioner strenuously that compliance of notices under Sections 179/94 of BNSS, 2023 may put the petitioner in a fix thereby requiring protection in the present writ petition though such notices were issued in connection with criminal prosecution being Egra Police Station Case No.292/2026 dated 26th May, 2026.
5. In support of such contention reliance is placed on the judgments of Hon'ble Supreme Court, reported in **1992 Supp (1) SCC 335 (State of Haryana vs- Bhajan Lal)**, **AIR 1980 SC 185 (V. S. Kuttan Pillai vs. Ramakrishnan and Anr.)** and **(2017) 9 SCC 714 (Santosh vs. State of Maharashtra)**.
6. On the contrary, Mr. Das, learned Additional Government Pleader representing the State respondents has filed a communication dated 19th June, 2026 of Inspector-in-Charge, Egra Police Station, Purba Medinipur and same is taken on

record. Copy of the said communication dated 19th June, 2026 is made over to the learned advocate representing the petitioner.

7. It is disclosed in the communication dated 19th June, 2026 that criminal prosecution being Egra Police Station Case No. 292/2026 dated 26th May, 2026 has been initiated against one Durga Bharati @ Durga Sankar Bharati and during investigation of the said case name of the petitioner surfaced. As a result whereof investigating agency issued notices under Sections 179/94 of BNSS, 2023.
8. It is also argued that there is no separate criminal prosecution pending against the petitioner and the issue investigated upon on issuance of notices to the petitioner.
9. Having considered the respective submissions made on behalf of the parties, it appears that there is allegation of commission of offence under Sections 303(2) and 317(2) of BNS, 2023 against said Durga Bharati @ Durga Sankar Bharati and in course of investigation since investigating agency found it necessary to interrogate the petitioner notices under Sections 179/94 of BNSS, 2023 were issued.
10. If Court accepts contention of Mr. Datta, learned senior advocate representing the petitioner that today there may not be any criminal prosecution initiated against the petitioner but disclosure of materials before the investigating agency in pursuance of notices under Sections 179/94 of BNSS, 2023 may result in initiation of criminal prosecution against the petitioner, taking note of the attending facts and allegation of commission of offences under Sections 303(2) and 317(2) of BNS, 2023 (both are cognizable offences), this Court does not find it apt to pass an order which will have an impact on investigation being carried out by the concerned police authority.

11. Furthermore, petitioner has an alternative remedy available in consideration of apprehension expressed before this Court to move pre-arrest bail application under Section 482 of Cr.PC before appropriate forum.
12. What is striking at this stage is that commission of cognizable offence is reported to the concerned police authority and Court is not required to embark upon exercise to find out veracity of such allegations. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court, reported in **(2021) 19 SCC 401 (Neeharika Infrastructure Private Limited vs. State of Maharashtra and Others)**. Paragraph 33.16 runs *infra*:-

“33.16. The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 CrPC and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438 CrPC before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/charge-sheet is filed under Section 173 CrPC, while dismissing/disposing of the quashing petition under

Section 482 CrPC and/or under Article 226 of the Constitution of India.”

13. Judgment of the Hon'ble Supreme Court in ***Neeharika Infrastructure*** (supra) took into consideration all the previous leading judgments on the aspect of entertaining writ petitions under Article 226 of the Constitution of India vis-à-vis applications under Section 482 CrPC seeking quashing of criminal prosecution.
14. In aforesaid conspectus, Court is not inclined to interfere with the present writ petition and same stands dismissed.
15. However, this order shall not preclude the petitioner to take steps in accordance with law, if situation so arises.
16. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)