Form No. J.(2)
Item No. DL/4
adeb - AR (CT)
Ct. No. 05

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICATION
APPELLATE SIDE

Before:
THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

W.P.A. 22891 of 2026

Umesh Prasad
Vs.
The State of West Bengal & Ors.

For the Petitioner	:	Mr. Soumya Banerjee Ms. Sucheta Banerjee
For the State	:	Mr. Pratip Mukherjee Ms. Sreetama Neogi
For the Added Respondents	:	Mr. Moyukh Mukherjee Mr. Binod Kumar Singh Ms. Sarmishtha Basak

Hearing concluded on : 07.10.2026

Judgment on: : 07.10.2026

SAUGATA BHATTACHARYYA, J:

1. Affidavit of service filed on behalf of petitioner is taken on record.

2. By presenting this writ petition propriety of FIR being Naihati Police Station Case No. 210 of 2026 dated 7th July, 2026 is

questioned and prayer is made for interdicting the aforesaid criminal prosecution.

3. It is submitted on behalf of petitioner that alleged incident took place on 31st January, 2025 whereas FIR was drawn up on 7th July, 2026. Therefore, delay is fatal so far impugned FIR is concerned thereby petitioner may be granted protection during pendency of this writ petition.

4. Mr. Mukherjee, learned advocate representing *defacto* complainant being respondent no. 5 and learned advocate representing State respondents have jointly opposed this writ petition and it is submitted that delay in lodging complaint being genesis of impugned FIR alone ought not to be ground for frustrating said criminal prosecution. In this regard reliance is placed on the judgment of Hon'ble Supreme Court reported in **2025 SCC OnLine SC 983 (Punit Beriwala Vs. State of NCT of Delhi & Ors.).**

5. On perusal of relevant part of FIR it appears that alleged incident took place on 31st January, 2025 but impugned FIR was drawn up on 7th July, 2026. It was alleged by respondent no. 5 that on 31st January, 2025 when respondent no. 5 was teaching students at his residence petitioner along with his associates after allegedly vandalizing and looting one tea stall vandalized petitioner's property, looted household articles, assaulted the petitioner and forcibly drove him out of his residence.

6. Taking note of allegations relevant provisions of Bharatiya Nyaya Sanhita, 2023 are incorporated in the aforesaid criminal prosecution some of which prescribe more than three years of imprisonment in case of conviction. Since investigation is continuing and it is at the nascent stage no exercise is required to be made by this Court at this stage to ascertain the veracity of allegations. Only point which needs to be addressed is delay in lodging complaint by the respondent no. 5 since alleged incident took place on 31st January, 2025 whereas FIR was drawn up on 7th July, 2026.

7. In **Punit Beriwala** (supra) in paragraphs 36 and 37 it has been decided by the Hon'ble Supreme Court, argument made on behalf of accused that delay in registration of FIR is a determinable factor in taking decision whether impugned FIR is maintainable or not was negated and it was further held that delay in registration of FIR for offences punishable with imprisonment of more than three years cannot be basis of interdicting a criminal investigation. It was also observed therein that delay will assume importance only when complainant fails to give a plausible explanation and whether the explanation is plausible or not, has to be decided by the Trial Court only after recording the evidence.

8. This Court finds it apt to quote paragraphs 36 and 37 below:-

> "36. *Further, accepting the reasoning given by the learned Single Judge in the impugned*

order that 'there had been a delay in registration of the FIR and because of such delay, the allegations made by the Appellant are unbelievable' and the submissions of learned senior counsel for Respondent Nos. 2 and 3 that no complaint/FIR should be entertained 'at this distance of time', would mean in effect in accepting the argument that delay is a sufficient ground for quashing of the present FIR/complaint.

37. It is settled law that delay in registration of the FIR for offences punishable with imprisonment of more than three years cannot be the basis of interdicting a criminal investigation. The delay will assume importance only when the complainant fails to give a plausible explanation and whether the explanation is plausible or not, has to be decided by the Trial Court only after recording the evidence. In this context, the Supreme Court in Skoda Auto Volkswagen (India) Private Limited v. State of Uttar Pradesh, (2021) 5 SCC 795 has held, "The mere delay on the part of the third respondent complainant in lodging the complaint, cannot by itself be a ground to quash the FIR. The law is too well settled on this aspect to warrant any reference to precedents….."

9. Furthermore, High Court while exercising writ jurisdiction under Article 226 of Constitution of India needs to exercise its power in deciding a writ petition seeking quashment of criminal proceeding sparingly and with circumspection. It is not a routine procedure to pass order thereby granting protection to petitioner or issue a mandamus declaring criminal proceeding void. Moreover, petitioner has an alternative remedy by approaching appropriate forum seeking pre-arrest bail under Section 482 BNSS, 2023.

10. In aforesaid conspectus Court is not inclined to interfere with this writ petition and same stands dismissed.

11. However, this order shall not preclude the petitioner to take steps in accordance with law, if so advised.

12. Parties to act on server copy of this order duly downloaded from the official website of this Court.

(SAUGATA BHATTACHARYYA, J.)