

11.02.2026

Item No.270

Ct.No.5

b.das

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION**

**C.R.R. No. 526 of 2025
Wangdi Tamang
Versus
The State of West Bengal & Anr.**

Mr. Mayank Bhandari
Mr. Satyajit Paul ... for the Petitioner

Mr. Aditi Shankar Chakraborty
Mr. Ujjwal Luksom ...for the State.

The petitioner seeks quashing of the criminal proceedings of Bhaktinagar PS Case No.62 dated 10th January, 2022 corresponding to GR Case no.396 of 2022 pending before the learned Chief Judicial Magistrate, Jalpaiguri.

Learned counsel for the petitioner submits that the only allegation against the petitioner is that he was not wearing a mask during the covid period when he stepped out of his house.

Section 51 (b) of the Disaster Management Act, 2005 is not attracted. Pendency of the criminal proceedings is causing obstruction to the petitioner's travel abroad.

Learned counsel for the State opposes the prayer and submits that charge sheet has been submitted. Trial is yet to commence.

I have considered the material on record.

At the outset, it shall be useful to reproduce Section 51 (b) of the 2005 Act:

“Punishment for obstruction, etc.- Whoever, without reasonable cause- (a) obstructs any officer or employee of the Central Government or the State Government, or a person authorized by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or (b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.”

The only allegation against the petitioner is that he stepped out of his house without wearing a mask in violation of the notification issued by the Government of West Bengal on 2nd January, 2022. The said notification lays down an advisory that wearing of masks, maintenance of physical distancing and health and hygiene protocol must be followed at all times.

It is only an advisory and not a mandate upon the public at large.

Charge sheet has been submitted against the petitioner under Section 188 of the Indian Penal Code read with Section 51(b) of the Disaster Management Act. The complaint or the evidence collected in course of investigation does not reflect any offence under the said provisions of law.

Violation of an advisory does not tantamount to a criminal offence either under Section 188 of the Indian Penal Code or under Section 51(b) of the Disaster Management Act.

In view of the above, this Court is inclined to hold that allowing the proceeding to continue shall be an abuse of process of the Court.

Accordingly, the proceeding being Bhaktinagar PS Case No.62 dated 10th January, 2022 corresponding to GR Case no.396 of 2022 pending before the learned Chief Judicial Magistrate, Jalpaiguri is quashed.

The petitioner be set at liberty at once and be discharged from his bail bond.

CRR 526 of 2025 is thus disposed of.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)