

09.01.2020
Court No.28
Sl No.3
AP&PA

CRM 12209 of 2019

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure.

Aijul Gharami
Vs.
State of West Bengal

Mr. Ayan Bhattacharjee, Adv.
Mr. Anand Keshari, Adv.

...for the petitioner

Mr. A.K. Maiti, A.P.P.
Ms. Z.N. Khan, Adv.
Ms. Trina Mitra, Adv.

...for the State

A spine chilling picture is revealed from the report which is filed before us by the Superintendent of Police Paschim Medinipur. Pursuant to our earlier order dated 23.12.2019 we had directed him to enquire into the allegation of obstruction held out by striking lawyers in the smooth functioning of Medinipur Sadar Court. From the report, it appears on and from 20th December, 2019 the striking lawyers had obstructed access to the court premises to all, including judges, police officers, staff and willing litigants. As a result, original case records were not produced before this Court. In this regard, police registered Kotwali Police Station Case No.809/19 dated 25.12.2019 under Sections 143/186 of the Indian Penal Code against the striking lawyers. It appears from the report although

such obstruction has presently been lifted, the cease work in the said court is still continuing.

The aforesaid state of affairs depicts a cavalier attitude on the part of the lawyers to the rule of law and repeated pronouncements of the Apex Court that a strike in court resulting in paralysis of administration of justice amounts to criminal contempt. Not only did the lawyers refrain from participating in court proceedings, but in the most brazen and blatant manner they had locked the entire court premises preventing judges, police officers, staff of the court and litigants from entering the court precincts. In our earlier order dated 23.12.2019, for reasons recorded therein, we had observed that the conduct of the striking lawyers not only amounts to criminal contempt but constitutes cognizable offences in law. In fact, FIR has been registered against the said lawyers. Report placed before us discloses sufficient materials to take a prima facie view that the conduct of the striking lawyers amounts to interference with administration of justice and has resulted in complete paralysis in the dispensation of justice in the said district.

Under such circumstances, we direct the Presidents and Secretaries of the concerned Bar Associations, namely, Medinipur Bar Association and Midnapur District Bar Association, that is Mr. Alok Mondal (President, Medinipur Bar Association), Mr. Mrinal Chowdhury (Secretary, Medinipur Bar Association), Mr. Arup Verma

(President, Midnapur District Bar Association) and Mr. Biswanath Ghosh (Secretary, Midnapur District Bar Association) to show cause why contempt proceedings shall not be initiated against them in terms of law declared by the apex court in ***Harish Uppal (Ex-Capt.) Vs. Union of India (2003) 2 SCC 45, Hussain and Anr. Vs. Union of India (2017) 5 SCC 702*** and ***Krishnakant Tamrakar Vs. State of M.P. (2018) 17 SCC 27.***

This matter is returnable on 17th February, 2020.

President and Secretary of the said Bar Association is directed to be personally present before this court on that date.

District Judge, Paschim Medinipur and Superintendent of Police, Paschim Medinipur shall ensure as following:-

(a) Court premises at Medinipur Sadar is kept open and accessible to all. No obstruction shall be held out to any willing litigant or lawyer who chooses to appear and participate in court proceedings in any manner whatsoever.

(b) Any obstruction to judges/police personnel/staff/willing lawyers/litigants and other stakeholders in the administration of justice by striking lawyers will be construed as cognizable offence in law and appropriate steps (prompt

investigation) and prevention of such crime shall be undertaken.

(c) District Judge, all other judicial officers and staff of the said court shall take all necessary steps so that certified copies and other relevant documents sought for by the litigants are provided to them forthwith and in accordance with law.

(d) No obstruction shall be made to furnishing of bail bonds by sureties including the family members of accused persons.

Department shall communicate this order to the District Judge, Paschim Medinipur, Superintendent of Police, Paschim Medinipur, the Presidents and Secretaries of the aforesaid Bar Associations forthwith.

District Judge, Paschim Medinipur and Superintendent of Police, Paschim Medinipur shall ensure wide publicity of this order in and around the Court precincts for awareness of lawyers, litigants and other stakeholders in the administration to justice for their intimation and due compliance. District Judge, Paschim Medinipur and Superintendent of Police, Paschim Medinipur shall take necessary steps for compliance of this order and submit a report in that regard on the next date of hearing.

It is submitted on behalf of the petitioner that he is in custody for about 345 days.

Status report with regard to the progress of the matter be filed on the next date of hearing.

Let this matter appear in the list under the same heading on 17th February, 2020.

Let xerox plain copy of this order duly countersigned by the Assistant Registrar (Court) be handed over to the concerned parties for due compliance upon completion of usual undertaking.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)