

2022 LiveLaw (SC) 1024

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

B.R. GAVAI; J., VIKRAM NATH; J.

SLP(CrI.) No. 10029 & 10032 of 2022; December 09, 2022

STATE OF WEST BENGAL *versus* SANDIP BISWAS

Constitution of India, 1950; Articles 226 - Code of Criminal Procedure, 1973; Section 482 - High Court does not have the power even under Articles 226 or Section 482 CrPC to direct the investigation to be conducted in a particular manner.

(Arising out of impugned final judgment and order dated 14-10-2022 in CRM(DB) No. 3601/2022 passed by the High Court at Calcutta)

For Petitioner(s) Mr. Sunil Fernandes, Adv. Mr. Ravinder Singh, Adv. Mr. Nipun Saxena, Adv. Ms. Raveesha Gupta, Adv. Ms. Mantika Haryani, Adv. Mr. Sanjeev Kaushik, Adv. Mr. Shreyas Awasthi, Adv. Mr. Archit Adlakha, Adv. Mr. Divyansh Tiwari, Adv. Ms. Saumya Saxena, Adv. Mr. Devvrat Singh, Adv. Ms. Astha Sharma, AOR

For Respondent(s) Mr. Ardhendu Mauli Prasad, Adv. Mr. Rajesh Sen, Adv. Mr. Rakesh Singh, Adv. Ms. Shibani Bhattacharjee, Adv. Mr. Vikas Jain, AOR Mr. Ashish Madan, Adv. Ms. Ananya Sahu, Adv. Ms. Trishani Sarkar, Adv. Mr. Sidharth Luthra, Sr. Adv. Mr. Rauf Rahim, AOR Mr. Jaydeep Biswas, Adv. Mr. Ali Asghar Rahim, Adv. Mr. Kaushik Ghosh, Adv. Ms. Shubhangani Jain, Adv. Mr. Sheezan Hashmi, Adv.

ORDER

Leave granted.

These appeals are taken for hearing forthwith.

The appellant-State is aggrieved by the order passed by the learned Division Bench of the High Court, wherein the High Court observed thus:

“Considering the above submissions, we direct that whatever further investigation is to be carried out, must be completed by 31st October, 2022 after expiry of which the petitioner shall automatically be released on the following terms and conditions”

We find that such a direction is unknown to law as held in ***M.C. Abraham and Anr. Vs. State of Maharashtra & Anr. reported in 2003(3) SCC 649.***

The High Court even under Articles 226 and 482 of the Constitution of India does not have the power to direct the investigation to be conducted in a particular manner. As to whether bail is to be granted is solely within the discretion of the High Court. However, directing the investigating agency to conclude the investigation by a particular date and after that date directing automatic release of the appellant, in our view would be to abdicate the function of the High Court to decide the question as to whether the applicant before it was entitled to grant of bail on merits or not.

On this short ground, we are inclined to allow these appeals. The impugned judgment and order and, particularly, the aforesaid directions are quashed and set aside.

We, however, make it clear that the respondent would be entitled to file an application for bail. In case, such an application is made before the High Court, the same would be decided on its own merits within a period of three weeks from the date of filing such an application.

Pending applications, if any, stand disposed of.