

WPA (H) 72 of 2021

**Buddhadeb Bhowmick.
Vs.
The State of West Bengal & ors.**

Mr. Srijib Chakraborty,
Mr. Suryaneel Das ... for the petitioner.

Mr. Amitesh Banerjee, Sr. Adv.,
Mr. Anirban Ray, Ld. G. P.,
Mr. Raja Saha,
Mr. Biswabrata Basu Mallick,
Mr. Debasish Ghosh .. for the State.

Reference may be made to the order dated 30th
December, 2021, which reads as follows:-

*“The report filed by the Superintendent,
Presidency Correctional Home, West Bengal is
before this Court.*

*According to the report, the accused,
Ranjit Bhowmick was released on bail by the
learned ACJM, Uluberia on December 21,
2021. The bail bond was furnished before the
learned court itself and the learned court
directed that the accused be released at once.
It has been stated in the report that the
accused was thereafter taken to Presidency
Correctional Home to check if there was any
other case pending against him. When it was
found that no other case was pending against
the said accused, the accused was released
forthwith on December 21, 2021.*

*Surprisingly, the report is silent as to the
time when the accused was taken to the*

Presidency Correctional Home and ultimately at what time the accused was released. From a copy of the register, it appears that the order of the learned Magistrate was received at around 6.35 p.m.

This Court is not satisfied with the report filed today. Prima facie, it appears that the authorities of the Presidency Correctional Home have not proceeded according to the jail code.

The contention of the learned Government Pleader is that the accused was not taken back into jail but released from the office of the superintendent without making an entry in the register because there was no other case pending against him and also because the learned court below had directed the accused be released forthwith. This is not acceptable by the Court. The learned Government Pleader has also submitted that the Superintendent, Presidency Correctional Home is present before this Court, and the said Ranjit Bhowmick was not taken back into jail custody after his return from court.

The jail authorities have not proceeded according to law as it prima facie appears to this Court. The apprehension of the family of the accused is that the accused succumbed to his illness in jail and the factum of death has not been correctly reported.

The learned Government Pleader, however, submits that at 7.52 p.m. the accused was released whereas, the said fact has not been recorded in the report. It is also a matter of serious concern that the accused was released without any entry being made in the relevant register and that too at 7.52 p.m. In

view of the procedural irregularity and also in view of the discrepancy in the statements made before this Court with those in the report, this Court is of the opinion that a further report be produced before the learned regular bench with regard to the attempt made for recovery of the accused Ranjit Bhowmick. It is the duty of the authorities to ensure that the accused is recovered especially because the family contends that the accused went missing from the said correctional home.

It is also made clear that the CCTV footage of the recording of December 21, 2021 in the office of the Superintendent, Presidency Correctional Home shall be produced before the Court in order to substantiate that the accused was brought back from Court and made to sit in the office and thereafter released at 7.52 p.m.

Such CCTV footage and further report be produced before the regular bench and the Superintendent, Presidency Correctional Home shall also be present with the original register and other documents showing release of the accused from the correctional home.

Let this matter appear on January 4, 2022 before the Regular Bench.”

In terms of the directions issued, a report has been filed before us today (21st January, 2022) dated 6th January, 2022 sent by the Superintendent, Presidency Correctional Home. The sum and substance of the report is that the digital video recorder, which was installed in the Correctional Home from which the CCTV footage was

directed to be produced is stated to be not functional. The Superintendent of the Correctional Home states that they had requested an expert to examine it, who has stated that the data cannot be recovered and they are contemplating of sending it to the Central Forensic Laboratory, Hyderabad. However, the digital video recorder has not been sent and it is available with the officers, who are present in Court. As noted by the Division Bench in its order dated 30th December, 2021, there is more than one version as regards the whereabouts of the missing person, Ranjit Bhowmick. The Court has also recorded oral submissions of the learned Government Pleader, which gives a different version. The report, which has been submitted before the Court dated 6th January, 2022 by the Superintendent, Presidency Correctional Home gives a slightly different set of facts. Two registers were produced before us to demonstrate that the accused was released on 21st December, 2021 at 7:52 p.m. and the register shows an entry by order of P. Roy (AC).

In our prima facie view, much importance and credence cannot be given to the registers as the registers were in the custody of the Superintendent of the Presidency Correctional Home and his officers. We are not here to say that there has been an insertion but we can always say that there is a good possibility of an insertion being made. Therefore, unless the other records

are compared to examine as to whether the stand taken by the respondent is factually correct or not, a conclusion cannot be arrived at.

Considering all these factors, we are of the opinion that an independent person should probe into the matter as the famous the adage goes “that the police cannot be polished”. Therefore, we entrust this responsibility to the learned Advocate General of the State of West Bengal. All papers connected to this Habeas Corpus petition be placed before the learned Advocate General including the copies of the reports filed by the Superintendent, Presidency Correctional Home as well as the report of the Officer-in-Charge, Alipore Police Station dated 21st December, 2021. Two original registers and the DVR, which have been brought before us by Shri Aniruddha Gupta, Chief Controller and Shri Pinak Roy, Assistant Controller, Presidency Correctional Home, who are present in Court, shall be forthwith handed over in the office of the learned Advocate General.

The learned Advocate General shall, on perusal of the registers, direct the respondents to provide attested photocopies of the concerned pages and the registers may be returned to the concerned officer with a direction to produce them before the appropriate person as and when required.

Considering the fact that the learned Advocate General may find it difficult to probe into the matter on

account of his busy schedule, we request the learned Advocate General to nominate an officer in the rank of the Director General of Police, who does not exercise any control over the correctional home in question. The said officer shall conduct a thorough probe into the matter and place the entire facts in the form of a report before this Court in a sealed cover.

The digital video recorder shall be retained in the office of the Learned Advocate General and as and when the officer in the rank of Director General of Police is nominated by the learned Advocate General, DVR can be handed over to him for examination.

List the matter on 11th February, 2022.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)