

IN THE HIGH COURT AT CALCUTTA

Criminal Miscellaneous Jurisdiction

Appellate Side

(In re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973.)

Present:

The Hon'ble Justice Tapabrata Chakraborty

CRM (DB) 172 of 2024

(Under RC-05A/2022)

Dr. Subires Bhattacharya @ Subiresh Bhattacharjee

Vs.

The Central Bureau of Investigation

with

CRM (DB) 173 of 2024

(Under RC-03A/2022)

Dr. Subires Bhattacharya @ Subiresh Bhattacharjee

Vs.

The Central Bureau of Investigation

with

CRM (DB) 418 of 2024

(Under RC-05A/2022)

Ashok Kumar Saha

Vs.

The Central Bureau of Investigation

with

CRM (DB) 427 of 2024

(Under RC-03A/2022)

Ashok Kumar Saha

Vs.

The Central Bureau of Investigation

with

CRM (DB) 467 of 2024

(Under RC-03A/2022)

Kalyanmoy Ganguly

Vs.

The Central Bureau of Investigation

with

CRM (DB) 583 of 2024

(Under RC-05A/2022)

Partha Chatterjee

Vs.

The Central Bureau of Investigation

with

CRM (DB) 818 of 2024

(Under RC-04A/2022)

Santi Prasad Sinha

Vs.

The Central Bureau of Investigation

with

CRM (DB) 822 of 2024

(Under RC-05A/2022)

Santi Prasad Sinha

Vs.

The Central Bureau of Investigation

with

CRM (DB) 823 of 2024

(Under RC-03A/2022)

Santi Prasad Sinha

Vs.

The Central Bureau of Investigation

For the Petitioners
[In CRM (DB) 172 of 2024
CRM (DB) 173 of 2024 &
CRM (DB) 467 of 2024]

: Mr. Sandipan Ganguly, Sr. Adv.,
: Mrs. Manaswita Mukherjee.

For the Petitioner
[In CRM (DB) 418 of 2024] : Mr. Sekhar Kumar Basu, Ld. Sr. Adv.,
: Mr. Rajat Sinha Roy.
: Mr. Surajit Basu.

For the Petitioner : Mr. Rajat Sinha Roy,
[In CRM (DB) 427 of 2024] : Mr. Surajit Basu.

For the Petitioner : Mr. Milon Mukherjee, Ld. Sr. Adv.,
[In CRM (DB) 583 of 2024] : Mr. Sandipan Ganguly, Ld. Sr. Adv.,
: Mr. Ayan Poddar,
: Mr. Soham Dutta,
: Ms. M. Mukherjee.

For the Petitioner : Mr. Milon Mukherjee, Ld. Sr. Adv.,
[In CRM (DB) 818 of 2024, : Mr. Biswajit Manna,
CRM (DB) 822 of 2024 & : Mr. Subhadeep Ghosh.
CRM (DB) 823 of 2024].

For the Central Bureau : Mr. Dhiraj Trivedi, Ld. DSGI,
of Investigation : Mr. Amajit De, Special PP, CBI,
[In all the matters]. : Mr. Arijit Majumdar.

Hearing is concluded on : 17th December, 2024.

Judgment On : 24th December, 2024.

Tapabrata Chakraborty, J.

1. The above bail applications preferred by Dr. Subires Bhattacharya, Mr. Ashok Kumar Saha, Dr. Kalyanmoy Ganguly, Dr. Santi Prasad Sinha and Dr.

Partha Chatterjee (hereinafter referred to as the petitioners) along with the bail applications of Mr. Koushik Ghosh, Sheikh Ali Imam, Md. Sahid Imam, Subrata Samanta Roy and Chandan Mondal were heard analogously by the Hon'ble Division Bench comprising of the Hon'ble Justice Arijit Banerjee and the Hon'ble Justice Apurba Sinha Ray and the judgment was delivered on 20th November, 2024. The Hon'ble Judges of the Division Bench could not reach any consensus as regards the petitioners herein. Banerjee, J. allowed the bail applications of all the accused persons but Sinha Ray, J rejected the bail applications of the petitioners. As there was a difference of opinion between the Hon'ble Judges of the Division Bench, the matter was assigned to this bench by the Hon'ble the Chief Justice on 21st November, 2024.

2. Banerjee, J. upon an elaborate discussion on bail jurisprudence and considering several judgments of the Hon'ble Supreme Court was of the opinion that if the State or any prosecuting agency, including the Court concerned, does not have the wherewithal to protect the fundamental right of an accused to have a speedy trial as enshrined in Article 21 of the Constitution of India, they should not oppose the plea for bail on the ground that the crime committed was serious. The rigours of bail provisions will melt down wherever there is no likelihood of trial being completed within a reasonable period of time. The requirement of expeditious disposal of cases must be read into even in the statutes which provide higher threshold towards grant of bail and the stringent conditions do not take away the power of Constitutional Courts to grant bail on the ground of violation of Part III of the Constitution of India.

Upon dealing with all the factual issues, it was observed by His Lordship that the State Government was sitting tight over the issue of grant or refusal of sanction to prosecute some of the accused persons and that the Central Bureau of Investigation (in short, CBI) had also not approached any competent forum for a direction upon the State Government to take a decision on the issue of grant or refusal of such sanction and that as such, there is no possibility towards conclusion of the trial in the near future more so when the CBI had proposed to examine 135 witnesses and voluminous documents. The argument advanced on behalf of the CBI to the effect that the petitioners were influential persons and they may tamper with the evidence or influence the witnesses was discounted observing that the evidence would be largely documentary in nature which had already been gathered by the prosecution. Considering the period of incarceration suffered and the fundamental principle of criminal jurisprudence that unless guilt is proven there remains a presumption of innocence, discretion was exercised in favour of all the accused persons.

3. Sinha Ray, J was, however, of the opinion that the petitioners are persons with political connections having deep roots with the authority which is reluctant to grant sanction to prosecute them. Placing reliance upon the orders passed earlier in the bail applications on 22.03.2024, 03.04.2024, 09.04.2024, 23.04.2024, 03.05.2024 and 03.07.2024, it was observed that in spite of clear direction and undertaking given by the Chief Secretary to the Government of West Bengal, the State did not decide on the issue of sanction and that as such the State was trying to protect the interest of the petitioners. His Lordship

further observed that in such circumstances, it cannot be ruled out that the petitioners are still influential and that it gives rise to a strong apprehension that if they are enlarged on bail, they would threaten the witnesses, who are temporary and contractual service holders, of termination of such engagement. In view thereof, bail prayer of the petitioners was refused with an observation that the State shall decide the issue of sanction within a fortnight and in default, the State shall be deemed to have sanctioned the prosecution in respect of the petitioners and that neither the State nor the petitioners at any stage of the subsequent proceedings can take the plea of deficiency in process of sanction.

4. As regards splitting of trial amongst Dr. Partha Chatterjee, in whose respect sanction had already been granted by the competent authority and the other petitioners whose sanction is still awaited, Banerjee, J observed that *'theoretically the trial may be split, however, given the nature for the offences alleged in the present case, that may not be an appropriate procedure'*. Similarly, Sinha Ray, J was of the opinion that *'the nature of the case is such that joint trial of all the accused is absolutely necessary'*.

5. The brief facts giving rise to the present impasse are as follows. In 2016, the West Bengal Central School Service Commission (hereinafter referred to as WBCSSC) conducted selection for recruitment to the posts of Assistant Teachers for Classes IX and X, Classes XI and XII and non-teaching staff of Group 'C' and Group 'D' category. A batch of writ petition was instituted before

the Hon'ble High Court challenging the selection process in 2016. The Hon'ble Judge of the Single Bench directed CBI to conduct an enquiry to identify the miscreants who issued letters of recommendation in order to secure appointments of undeserving candidates. Pursuant thereto, RC Case No.03A dated 07.04.2022 u/s 120-B, 420 of Indian Penal Code (hereinafter referred to as IPC) and Section 7 of Prevention of Corruption Act, 1988 (hereinafter referred to as PC Act), RC Case No. 04A dated 18.05.2022 u/s 120-B, 420 of IPC and Section 7 of PC Act and RC Case No. 05A dated 20.05.2022 u/s 120-B, 417, 465, 468, 34 of IPC and Section 7 of PC Act were registered and in connection with the said cases, the petitioners, namely, Dr. Subires Bhattacharya, the Chairman of WBCSSC, Mr. Ashok Kumar Saha, the Secretary of WBCSSC, Dr. Kalyanmoy Ganguly, the President of West Bengal Board of Secondary Education (in short WBBSE), Dr. Santi Prasad Sinha, the Secretary of WBBSE and Dr. Partha Chatterjee, the Minister in-charge of Higher Education and School Education Department, Government of West Bengal were arrested. All the petitioners have been arraigned in connection with what has come to be known as the School Service Commission Scam. The searches conducted led to seizure of huge cash and gold jewellery. The petitioners are in custody for more than two years.

6. Mr. Shekhar Basu, learned senior advocate appearing for Mr. Ashok Kumar Saha has taken exception to the order passed by the Sinha Ray, J on several grounds. His first challenge is that the finding to the effect that the petitioners would tamper with the evidence and would influence the witnesses

is misconceived. Question of tampering with the evidence at this stage does not arise since all the documents have already been seized. The witnesses also cannot be influenced to depose contrary to the said documents. In case of any contradiction in oral evidence with the documents exhibited, appropriate consequential steps would follow. In view thereof, the apprehension that the witness may be influenced has been rightly ruled out by the Hon'ble Justice Banerjee.

7. He argues that the inaction on the part of the appropriate authority to grant sanction cannot be a ground towards denial of bail. The parameters towards grant of bail and grant of sanction have been erroneously clubbed together to arrive at a finding that the sanctioning authority is granting leverage to the petitioners to take the plea of delay in progress of trial.

8. Mr. Mukherjee, learned senior advocate appearing for Dr. Partha Chatterjee and Dr. Santi Prasad Sinha adopts the submissions of Mr. Basu and submits that consideration of bail on the ground of violation of constitutional right is on a separate niche altogether. No procedure which does not ensure a reasonably quick trial cannot be regarded as '*reasonable, fair, or just*' and it would fall foul of Article 21 of the Constitution of India. The procedure must be fair and ensure a speedy trial. If the period of deprivation becomes unduly long, fairness assured by Article 21 would receive a jolt.

9. He argues that his clients are in custody for than two years. The investigation is complete and chargesheets have been submitted. All relevant

documents had already been seized. The alleged flight risk has been sufficiently taken care of by incorporating condition towards surrender of passport. The other stringent bail conditions, as imposed, rule out the alleged possibility of the witnesses being influenced.

10. He argues that his clients had no role to play as regards alteration of the relevant rules to withdraw the power of recommending and appointing authority from erstwhile units. The said rules were framed and promulgated by the competent legislature. Though the suspected offence was alleged to be of the period from 2016 to 2021, the FIR was lodged in the year 2022 and even in the same, Dr. Partha Chatterjee's name did not feature.

11. Drawing this Court's attention to the charges alleged, he argues that the Hon'ble Justice Sinha Ray glossed over the issue of parity, as urged and denied bail to the petitioners being oblivious of the fact that Dr. Kalyanmoy Ganguly had already been granted bail in RC 05A of 2022.

12. According to him, bail was erroneously refused to the petitioners taking into consideration a judgment delivered in the case of *Afjal Ali Sha @ Abjal Shaukat Sha Vs. The State of West Bengal* [Transfer Petition (Criminal) No. 409 of 2021] reported in *2023 SCC OnLine SC 282*. The said judgment was delivered in a transfer petition and had no manner of application in the present case.

13. The Hon'ble Justice Sinha Ray, according to Mr. Mukherjee, had erroneously sought to silhouette a nexus between the State and the accused

persons in the delay towards adoption of any decision towards grant of sanction to prosecution on the rudiments of the observations made in earlier orders of the co-ordinate Bench. The Hon'ble Judge also did not consider that in respect of Dr. Partha Chatterjee sanction had already been granted by the competent authority.

14. Drawing our attention to paragraphs 13 and 17 of the order passed by the Hon'ble Justice Ray, Mr. Mukherjee argues that the Court had no jurisdiction to pass any mandatory direction upon the State to decide the issue of sanction within a fortnight with a default clause that after the said period, the State shall be deemed to have sanctioned the prosecution in respect of the applications as prayed for. Such direction falls foul of the dictum of the Hon'ble Supreme Court delivered in the case *Prasanna Kumar Roy @ Rakesh vs Central Bureau of Investigation* where, in similar circumstances and taking note of the fact that cognizance had not been granted, the bail prayer was allowed. The Hon'ble Justice Sinha Ray had erroneously jumbled up the issues as regards grant of sanction and exercise of discretion towards grant of bail though the same are governed by independent parameters and in spite of a direction towards bifurcation of the riders in an earlier order.

15. Mr. Sandipan Ganguly, learned advocate appearing for Dr. Subires Bhattacharya, Dr. Kalyanmoy Ganguly and also for Dr. Partha Chatterjee argues that grant of bail on ground of undue delay in trail, cannot be said to be fettered by the higher pedestal set by the provisions of the PC Act. If trials are

not concluded in time, the injustice wrecked on the individual is immeasurable. The jails are overcrowded and living conditions, more often than not, are appalling. The petitioners have already suffered a long period of incarceration and any further detention would tantamount to penalization more so when they are senior citizens suffering from several ailments. Their prayer for bail has been erroneously denied by the Hon'ble Justice Sinha Ray failing to appreciate the delirious effects of incarceration.

16. He argues that the observation of the Court in paragraph 9 of the order dated 09.04.2024 has been erroneously construed to be an observation that the competent authority was under malefic influence of the accused persons. Even though such sanction of prosecution was awaited, discretion was exercised by the Court in favour of Dr. Kalyanmoy Ganguly and bail was granted in connection with RC 05A of 2022 on 29.11.2023. However, without any reason, a different yardstick has been applied in present case.

17. Placing reliance upon the judgment delivered in the case of *Vijay Rajmohan versus Central Bureau of Investigation (Anti-Corruption Branch)*, reported in (2023) 1 SCC 329, Mr. Ganguly argues that when the sanctioning authority was unable to take a decision within the period prescribed towards grant of sanction it was incumbent upon the prosecution to approach the writ Court seeking a mandamus against such inaction. The direction towards grant of deemed sanction, as contained in paragraph 17 of the order passed by the Hon'ble Justice Sinha Ray, suffers from a jurisdictional error and the Hon'ble

Judge ought not to have tread on the said path exercising jurisdiction under Article 482 of the Criminal Procedure Code (in short, CrPC) and by such direction the Hon'ble Judge had erroneously read down the dictum of the superior Court.

18. In support of the arguments, as advanced, the learned senior advocates appearing for the petitioners have placed reliance upon the judgments delivered in the cases of *P. Chidambaram versus Directorate of Enforcement*, reported in (2020) 13 SCC 791, *V. Senthil Balaji versus Deputy Director, Directorate of Enforcement*, reported in 2024 SCC OnLine SC 2626, *Manish Sisodia versus Directorate of Enforcement*, reported in 2024 SCC OnLine SC 1920, *Laloo Prasad Alias Laloo Prasad Yadav versus Jagannath Mishra*, reported in (2002) 9 SCC 372, *Suganthi Suresh Kumar versus Jagdeeshan*, reported in (2002) 2 SCC 420, *South Central Railway Employees Cooperative Credit Society Employees Union versus B. Yashodabai and Others*, reported in (2015) 2 SCC 727, *Mutha Associates and Others versus State of Maharashtra and Others*, reported in (2013) 14 SCC 304, *Vijay Rajmohan versus Central Bureau of Investigation (Anti-Corruption Branch)*, reported in (2023) 1 SCC 329 and *Arvind Kejriwal versus Central Bureau of Investigation*, reported in 2024 SCC OnLine SC 2550.

19. *Per contra*, Mr. Trivedi, learned Deputy Solicitor General of India appearing on behalf of CBI submits that the petitioners are the prime conspirators in a deep-rooted conspiracy to appoint undeserving persons to teaching and non-teaching posts in various schools in the State. They abused

their official positions and issued fake appointment letters on the fraudulent recommendations. Apart from recovery of documents showcasing the appointment of staff such as admit cards, intimation letters for verification of testimonials and personality tests, application forms, it was also found that OMR sheets have been destroyed and was not in the connected server. All such facts need to be established on the basis of the oral evidence to be tendered by the prosecution witnesses and the documents at the time of trial. In view thereof, it cannot be urged that the entire case is dependent upon documents. Apart from official witnesses, the list of witnesses includes many employees engaged on contractual basis, who fall within a vulnerable group and as such the possibility that they may be influenced by the petitioners, cannot be ruled out.

20. He argues that grant of bail must be determined on the unique circumstances of each case, balanced against settled factors such as gravity of the offence, the nature of allegations, the possibility of evidence tampering, threat or influence over the material witnesses and the societal impact of such release. The same would not apply as a matter of course in respect of socio-economic offences which constitute a class apart. The application of the provisions of Article 21 of the Constitution of India would certainly be dependent upon the facts and circumstances of the case which involves a scam of crores of money and a very deep-rooted conspiracy involving the State Minister of Education, the Chairman of the WBSSC, the Secretary of the WBSSC, the President of the WBBSE and Secretary of the WBBSE. In support

of such contention reliance has been placed upon the judgment delivered in the case of *Y.S. Jagan Mohan Reddy -vs- Central Bureau of Investigation*, reported in *2013 (7) SCC 439*.

21. He submits that in spite of repeated directions issued by the earlier coordinate Bench upon the Chief Secretary to take a decision towards grant of sanction necessary for prosecution, such sanction has not been granted till date. Leaving aside the fact that repeated representations were submitted by CBI seeking sanction, the highest administrative officer of the State in spite of orders of the Court had the audacity to keep the entire matter in abeyance by repeatedly seeking extension of time to take a decision. In the said conspectus, the nexus between the petitioners and the State machinery cannot be ruled out.

22. He further argues that the earlier coordinate Bench prior to exercise of discretion thought it appropriate to ascertain as to why no decision was being taken as regards grant of sanction. Accordingly, the Hon'ble Division Bench called for a reply from the competent authority by repeated orders but in vain. In such circumstances and as the Hon'ble Division Bench was in *seisin* of the matter, it cannot be argued that CBI ought to have again approached the writ Court seeking similar directions.

23. Mr. Trivedi submits that rights of the petitioners far less rights guaranteed under Article 21 of the Constitution of India have been infringed by the prosecution. In the present case a piquant situation had emerged where the

prosecution is suffering at the hands of the sanctioning authority. It cannot be argued that the petitioners would be entitled to bail *ipso facto* on the basis of the period in custody. CBI is not responsible in any manner for the delay which has occurred towards conclusion of trial in as much as the competent State authority had withheld the grant of sanction on and from the year 2022 till date and in such circumstances, the Hon'ble Justice Sinha Ray rightly arrived at a finding that inability to proceed with the trial cannot be attributed to CBI.

24. In reply, the learned senior advocates appearing for the petitioners submits that the learned single Judge had no jurisdiction to direct deemed sanction with a further rider that '*neither the State nor the applicants at any stage of the subsequent proceedings can take the plea of deficiency in process of sanction*'. Such direction may cause extreme prejudice to the petitioners as there may also be non-application of mind. All the petitioners are aged persons and they are presently not holding any Government post and as such the argument that they are still in a position to influence the witnesses, is not sustainable. There is no possibility towards conclusion of the trial in the near future and though the presence of the petitioners during trial can be ensured still they would have to continue in custody with an '*albatross around*'.

25. I have heard the learned advocates appearing for the parties at length and I have given my anxious consideration to the facts and circumstances of the case.

26. Jurisprudentially, the guarantee under Article 21 embraces both the life and liberty of the accused as well as interest of the victim, his near and dear ones as well as of the community at large and therefore cannot be alienated from each other with levity. If any undeserving candidate is allowed to top exams by corrupt means, not only will the society be deprived of deserving candidates, but it will be unfair for those students who have honestly worked hard and are ultimately disentitled to a good rank by fraudulent practices prevalent in those examinations. The allegations against the petitioners are very serious in nature, which are reflected from the excerpts of the documents on record. The offences alleged, if proved, may jeopardize the credibility of the education system of the State. Although '*bail is the rule and jail is an exception*' is well established in our jurisprudence, we have to measure competing forces present in facts and circumstances of each case before enlarging a person on bail. [See the judgment delivered in the case of *State of Bihar VS Amit Kumar @ Bacha Rai*, reported in *2017(13) SCC 751*].

27. No reason is forthcoming as to why the State is maintaining a stoic silence as regards grant of sanction when pertaining to the alleged offences sanction has already been granted by the Hon'ble Governor in respect of Dr. Partha Chatterjee. The direction to take a decision towards grant of sanction within a time-frame is in aid of fair and speedy trial. Such decision taken as expeditiously as possible would remove the hurdles towards commencement of trial and conclusion of the depositions of the vulnerable witnesses. In the said

conspectus, Sinha Ray, J had rightly refused to grant bail to the petitioners at the present stage.

28. It is well settled that the decision is an authority for what it decides and not what can logically be deduced therefrom. Even a slight distinction in fact or an additional fact may make a lot of difference in the decision-making process. There is no dispute as regards the proposition of law laid down by the judgments upon which reliance has been placed on behalf of the petitioners. However, the same are distinguishable on facts. Plenitude of pronouncement leaves cleavage in the opinions formed in the respective cases. None of the said decisions lay down any invariable rule for grant of bail on completion of a specified period of detention in custody. Indeed, in a discretionary matter, like grant or refusal of bail, it would be impossible to lay down any invariable rule or evolve a strait jacket formula. The Court must exercise its discretion having regard to all the relevant facts and circumstances.

29. The gravity of the offence, the nature of accusation and evidence therefor, the reasonable apprehension of the witnesses being influenced, balance between the rights of the accused and the larger interest of the society, the period of detention are all factors inextricably bound and only upon a composite consideration of the said parameters, the Court may or may not exercise discretion in favour of the accused. The conditions need to be considered together and not in isolation and a particular rider cannot be taken up and highlighted. Only delay in progress of trial may not be the sole criterion

for enlarging the accused persons on bail since it cannot be said how long a period of detention is too long in a system where justice is supposed to be swift but deliberate more so when the subject matter is a scam of extraordinary dimension involving exchange of monetary considerations for giving appointments. The menace of corruption has accorded the undeserved with an unfair advantage over the deserved and deepened the societal chasm between haves and have-nots.

30. Parity cannot be the sole ground for granting bail even at the stage when the bail application of a co-accused is allowed. The Court has to satisfy itself that, on consideration of more materials placed, further developments in the investigations and other different considerations, there are sufficient grounds for releasing the applicant on bail. In deciding the aspect of parity, the role attached to the accused persons, their position in relation to the incident and to the victims is of utmost importance. Court cannot proceed on the basis of parity on a simplistic assessment, which again cannot pass muster under the law. Records would reveal that Dr. Kalyanmoy Ganguly was granted bail in RC Case No. 05A on 29.11.2023, i.e., about a year after papers were forwarded by CBI to the Chief Secretary of the State seeking sanction. Even after four months thereafter, when sanction was still awaited, Court passed the order dated 22.03.2024 directing the Chief Secretary to submit a report with regard to the time frame within which he proposes to take a decision. In spite of repeated orders thereafter no decision was taken and as such considering the totality of the circumstances, Sinha Ray, J rightly refused to exercise discretion.

[See the judgment delivered in the case of *Ramesh Bhavan Rathod* versus *Vishanbhai Hirabhai Makwana Makwana (Koli) & Anr.*, reported in (2021) 6 SCC 230].

31. Offences involving economic crime and corruption fall in a different category. Their gravity cannot be measured only from the perspective of sentence prescribed in law. A crime of this nature would definitely fall in the category of offences which travel far ahead of personal or private wrong. The Court cannot be a silent or a mute spectator and yield to the ingenuous dexterity of the accused persons to adroit moves.

32. The earlier coordinate Bench prior to exercise of discretion thought it appropriate to ascertain as to why no decision was being taken as regards grant of sanction. Accordingly, the Hon'ble Division Bench called for a reply from the competent authority by repeated orders but in vain. In the case of *Vijay Rajmohan (Supra)*, upon which reliance has been placed on behalf of the petitioners, the Hon'ble Court observed *inter alia* that the proviso to Section 19 of the PC Act mandating that '*the competent authority shall endeavour to convey the decision on the proposal for sanction within a period of three months can only be read and understood as a compelling statutory obligation*'. The Court further observed that upon expiry of such period '*the aggrieved party, be it the complainant, accused or victim, would be entitled to approach the writ court concerned*'. In the present case, State has withheld the decision as regards sanction and on the rudiments of the latter observation, it may not be urged in

the facts and circumstances of the case, that the delay would be attributable to CBI for having not approached the writ Court more so when the Hon'ble Division Bench was in *seisin* of the said issue.

33. It is the obligation of the State to act in a fair and impartial manner and to extend all cooperation so that the truth unfolds. By orders dated 22.03.2024 and 03.04.2024, the Court directed the Chief Secretary, Government of West Bengal to submit a report with regard to the time frame within which a decision towards grant of sanction may be taken. In response thereto, the Chief Secretary affirmed a report on 08.04.2024 stating that he may be allowed to suggest a time frame only after the declaration of election results and after June, 2024. Considering the said report, the Court on 09.04.2024 observed that the same was laconic and incomplete and directed the Chief Secretary to act independently and to take an objective decision with a hope that *'the malefic influence of accused persons who held prominent posts in public administration including one who was a former minister does not have anything to do with the recalcitrant attitude of the Chief Secretary'*. Decision towards grant of sanction is still awaited. In the said conspectus and considering the State's inertia to take a decision as regards sanction, Sinha Ray-J found probable causes for believing that the nexus of the petitioners with the State cannot be ruled out and rightly refused bail to the petitioners.

34. For the reasons discussed above, I am in complete agreement with the judgment and order of Sinha Ray, J.

35. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

(Tapabrata Chakraborty, J.)