

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.3320 OF 2024
(Arising out of S.L.P.(Criminal) No.1506 of 2024)

SAHER ALI MIA & ORS. ... APPELLANT(S)

VS.

CENTRAL BUREAU OF INVESTIGATION & ORS. ... RESPONDENT(S)

O R D E R

Leave granted.

Heard the learned counsel appearing for the parties.

By the impugned order, on a petition filed by the first respondent-Central Bureau of Investigation (CBI), the High Court has transferred CBI Case No.RC0562021S0019 dated 27.08.2021 arising out of GR Case No.440/2021 (Sitalkuchi Police Station Case No.104/21 dated 05.05.2021) to the Special CBI Court at Siliguri, West Bengal for continuation of trial and conclusion thereof.

The appellants herein are some of the accused. The principal grievance of the appellants was that the appellants were not served with the notice of the proceedings in which the impugned order dated 15th December, 2023 was passed by the High Court.

Therefore, we had called upon the first respondent-CBI to file an affidavit placing on record the documents to show that the appellants were served with the notice of the proceedings. Accordingly, an affidavit has been filed by Mr. Sanjay Kumar Sinha, Superintendent of Police, CBI, SCB, Kolkata. In the affidavit, it is stated that the notices were ordered to be issued in the case by the Calcutta High Court on 7th September, 2022 and a direction was issued to serve notices by registered speed post. The stand in paragraph 8 of the said affidavit is that the complainant (third respondent herein) and 18 accused were sent notices by Speed post on 28th October, 2022. However, it is an admitted position that the notices were sent to the residential addresses of the appellants and admittedly, the appellants were in custody at that time. Therefore, there was no proper service of notice. Only on this ground, we set aside the impugned order dated 15th December, 2023 and restore CRR No.2987 of 2022 to the file of the High Court at Calcutta.

If there was any interim relief operative in CRR No.2987 of 2022 till the date of passing of the impugned order, even the same stands restored.

At this stage, the learned counsel appearing for the third respondent, who is the complainant, submits that the third respondent is being threatened by accused and he has already filed complaints in that behalf.

We make it clear that it will be always open for the third respondent to apply to the concerned local police station for grant of adequate police protection and if such an application is made, the concerned police station will act upon the same immediately.

The appeal is accordingly allowed.

All contentions of the parties in the restored petition are left open to be decided by the High Court.

.....J.
(ABHAY S.OKA)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
August 09, 2024.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s). 1506/2024

(Arising out of impugned final judgment and order dated 15-12-2023 in CRR No. 2987/2022 passed by the High Court at Calcutta)

SAHER ALI MIA & ORS.

Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION & ORS.

Respondent(s)

(IA No. 23768/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

WITH Diary No(s). 51357/2023

(IA No. 29252/2024 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS)

Date : 09-08-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s)

Mr. F. I. Choudhury, AOR
Mr. David Choudhury, Adv.

Mr. Annam Venkatesh, Adv.
Mr. Zoheb Hussain, Adv.
Ms. Swati Ghildiyal, Adv.
Mr. Chitvan Singhal, Adv.
Mr. Raman Yadav, Adv.
Mr. Abhishek Kumar Pandey, Adv.
Mr. Mukesh Kumar Singh, Adv.
Mr. Kartikay Aggarwal, Adv.
Mrs. Ameyavikrama Thanvi, Adv.
Mr. Mukesh Kumar Maroria, AOR

For Respondent(s)

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Gopal Shankarnarayan, Sr. Adv.
Ms. Astha Sharma, AOR
Mr. Amit Bhandari, Adv.
Mr. Srisatya Mohanty, Adv.
Ms. Mantika Haryani, Adv.
Mr. Madhav Gupta, Adv.
Ms. Muskan Surana, Adv.

Mr. Annam Venkatesh, Adv.
Mr. Zoheb Hussain, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Chandra Prakash, Adv.
Mr. Sachin Sharma, Adv.
Mr. Chitvan Singhal, Adv.
Mr. Raman Yadav, Adv.
Mr. Abhishek Kumar Pandey, Adv.
Mr. Mukesh Kumar Singh, Adv.
Mr. Kartikay Aggarwal, Adv.
Mrs. Ameyavikrama Thanvi, Adv.
Mr. Mukesh Kumar Maroria, AOR

Mr. Uday Sankar Chattopadhyay, Adv.
Mr. Pronay Basak, Adv.
Mr. Manish Awasthi, Adv.
Mr. Anshul Grovar, Adv.
Mr. Kunal Malik, AOR

Mr. Kushagra Pandey, AOR
Mr. Abhijeet Ipadhyay, Adv.
Ms. Ankita Gupta, Adv.

Mr. Subhasish Bhowmick, AOR
Mr. Rahul Kushwaha, Adv.
Ms. Neerja Sharma, Adv.
Mr. Reegan S Bel, Adv.
Mr. Ashutosh Singh, Adv.

Mr. Faisal Farook, Adv.
Mr. Anirban Guhathakurta, Adv.
Mr. Shubail Farook, Adv.
Mr. Ranjay Kumar Dubey, AOR

Ms. Reena Pandey, Adv.
Mr. Anurag Pandey, AOR

Mr. Anjan Datta, Adv.
Mr. Litan Maitra, Adv.
Mr. Pawan Kumar, Adv.
Ms. Ishita Srivastava, Adv.
Mr. Binod Kumar Behara, Adv.
Mr. V J Pushpakumar, Adv.
Mr. Ibrahim Ahmed, Adv.
Mr. Rahul Sharma, Adv.
Mr. Adarsh Kumar, Adv.
Mr. Vishal Arun Mishra, AOR

Mr. Bharat Sood, Adv.
Mr. Sanjib Kumar Dan, Adv.
Mr. P. S. Sudheer, AOR
Mr. Rishi Maheshwari, Adv.
Ms. Anne Mathew, Adv.
Ms. Miranda Solaman, Adv.
Ms. Sunaina Phul, Adv.

Ms. Mohini Priya, AOR

Mr. Md. Sabir Ahmed, Adv.
Mr. Dibyadyuti Banerjee, Adv.
Mr. Md. Abdur Rakib, Adv.
Ms. Sumedha Halder, Adv.
Mr. Abhijit Sengupta, AOR

Mr. Syed Mehdi Imam, AOR
Mr. Mohd Noorullah, Adv.
Mr. Mohd Parvez Dabas, Adv.
Mr. Uzmi Jamil Husain, Adv.
Mr. Tabrez Ahmad, Adv.

Mr. Ranjan Nikhil Dharnidhar, AOR

Mr. Rakesh Kumar Singh, AOR
Mr. Pushendra Kumar Dhaka, Adv.
Mr. Arnab Saha, Adv.
Mr. Abhishek Kumar, Adv.
Ms. Poonam Sharma, Adv.
Ms. Simran Singh, Adv.

Mr. Kush Chaturvedi, AOR
Mr. Syed Faraz Alam, Adv.
Mr. Mijanul Kabir, Adv.
Mr. Atharva Gaur, Adv.
Mr. Aayushman Aggarwal, Adv.

Mr. Pranav Sachdeva, AOR

Mr. Mangaljit Mukherjee, Adv.
Mrs. Debarpita Basu Mukherjee, Adv.
Mr. Vijay Kumar, Adv.
Mr. K.R.Anand, Adv.
Mr. Deepak Chopra, Adv.
Dr. Vikas Pahal, Adv.
Mr. Chand Qureshi, AOR

Mr. Shiv Shanker Banerjee, Adv.
Ms. Madhurima Ghosh, Adv.
Mr. Siddarth Agarwal, AOR

UPON hearing the counsel the Court made the following
O R D E R

SLP(Criminal)No.1506 of 2024

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application also stands disposed of.

Transfer Petition (Criminal) Diary No.51357 of 2023

The learned senior counsel appearing for the respondent-State of West Bengal seek time on the ground that a long rejoinder affidavit has been served upon them. If there are new facts pleaded in the rejoinder affidavit, we permit the respondent-State of West Bengal to deal with the same by filing an affidavit within a period of three weeks from today.

We make it clear that notwithstanding the pendency of this petition in this Court, if the bail petitions/applications filed by the accused are pending before the Trial Court or the High Court, the Courts are free to decide the bail applications in accordance with law.

List on 20th September, 2024.

Counter affidavit, if not filed earlier, may be filed in the meantime.

(ANITA MALHOTRA)
AR-CUM-PS
(Signed order in SLP(Cr1.)No.1506/2024 is placed on the file.)

(AVGV RAMU)
COURT MASTER