

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Ajay Kumar Gupta

WPA (H) 57 of 2026

Surendra Sharma

Vs.

The State of West Bengal & Ors.

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For the Petitioner : Mr. Uday Sankar Chattopadhyay, Advocate
Ms. Rajashree Tah, Advocate
Ms. Trisha Rakshit, Advocate
Ms. Aishwarya Datta, Advocate
Ms. Bidisha Chakraborty, Advocate
Ms. Sadia Parveen, Advocate

For the State : Mr. Dibashish Basu, Ld. AGP
Ms. Sneha Dutta, Advocate
Mr. Purnendu Das, Advocate
Mr. Subhankar Chakraborty, Advocate
Ms. Rama Ghosh Dastidar, Advocate

Hearing & Judgment on : **July 31, 2026**

DEBANGSU BASAK, J.:-

1. Writ petition is at the behest of a father seeking relief with regard to the arrest of his son made by the police.
2. Affidavits filed in Court be taken on record.
3. Learned Advocate appearing for the petitioner submits that, the son of the writ petitioner was arrested on June 27, 2026 at 11 am. He submits that,

the son of the writ petitioner moved the High Court under Article 226 of the Constitution of India which was registered as WPA 13152 of 2026. Such writ petition was disposed of by an order dated June 24, 2026. He submits that, the police case on the basis of which, the son of the writ petitioner was sought to be arrested by the police, was not mentioned by the State consequent upon the order dated June 24, 2026.

4. Learned Advocate appearing for the writ petitioner submits that, the family of the son of the writ petitioner or the writ petitioner was not communicated with the grounds of arrest of the son of the writ petitioner. He submits that, in absence of such mandatory compliance, the arrest itself is illegal. In support of such contention, he relies upon **(2026) 1 Supreme Court Cases 500 (Mihir Rajesh Shah vs. State of Maharashtra and Another)**.
5. Learned Advocate appearing for the writ petitioner submits that, the son of the writ petitioner was a Councillor belonging to a rival political party. He submits that, the family of the writ petitioner and his son are reputed in the locality.
6. Learned Advocate appearing for the writ petitioner draws the attention of the Court to the complaint lodged by the de facto complainant. He submits that, two complaints were lodged by the de facto complainant with regard to an incident alleged to be occurring on September 5, 2025. He submits that, the two complaints read together would demonstrate that, the son of the writ petitioner was falsely implicated. In support of one of

the police complaints, the son of the writ petitioner is not named in the written complaint while the son of the writ petitioner is named in the other police complaint.

7. Learned Advocate appearing for the writ petitioner draws the attention of the Court to the averments made in the affidavit-in-opposition filed by the State. He submits that, admittedly, the grounds of arrest were not made over to the son of the writ petitioner or to the writ petitioner.
8. State is represented.
9. We find from the records that, the son of the writ petitioner was arrested in respect of a police case being Burdwan FIR No.876 of 2026 dated June 27, 2026 under Sections 126(1)/115(1)/117(2)/109(1)/308(1)/308(4)/76/64/62/324(4)/3(5) of the BNS, 2023 and Sections 25/27 of the Arms Act.
10. The son of the writ petitioner was arrested in respect of such police complaint on June 27, 2026 at about 15:15 hours.
11. The son of the writ petitioner moved the High Court by way of a writ petition being **WPA 13152 of 2026 (Sumit Kumar Sharma vs. The State of West Bengal & Ors.)**. Such writ petition was disposed of by an order dated June 24, 2026 by recording that, no criminal prosecution was pending as against the son of the writ petition in the Burdwan Police Station as on June 24, 2026.
12. The police complaint on the basis of which, the son of the writ petitioner was arrested was registered as a First Information Report on June 27, 2026 which is later than the order dated June 24, 2026.

13. The police complaint relates to an incident occurring on September 5, 2025. The allegation in the police complaint is that the son of the writ petitioner along with others were involved in extorting the money from the de facto complainant. Police complaint discloses commission of cognizable offences. Arrest pursuant to such police complaint cannot be faulted.
14. There is another police complaint by the de facto complainant relating to an incident occurring at his residence. There, the son of the writ petitioner is not named in the written complaint. Son of the writ petitioner was not arrested in respect of the second complaint which relates to the incident occurring at the residence of the de facto complainant on September 5, 2025.
15. **Mihir Rajesh Shah** (supra) is of the view that, communication of the grounds of arrest as soon as possible is mandatory. Violation of such mandatory provision resonates on the quality of the arrest. It renders the arrest illegal.
16. In the facts and circumstances of the present case, it is averred in the affidavit-in-opposition by the State that, at the time of arrest, none of the family members of the writ petitioner or the son of the writ petitioner was available in the residence. Wife of the son of the writ petitioner visited the police station on the date subsequent to the date of arrest. Grounds of arrest were sought to be tendered to the wife of the son of the writ petitioner who refused to accept the same.

17. It is admitted in course of hearing by the learned Advocate appearing for the writ petitioner that the wife of the son of the writ petitioner visited the police station on June 28, 2026. It is, however, claimed that the wife of the son of the writ petitioner was not tendered the grounds of arrest at the police station.
18. The fact that, the son of the writ petitioner was arrested in respect of the police case was known to the writ petitioner and the family members of the son of the writ petitioner. Wife of the writ petitioner visited the police station on the date subsequent to the arrest.
19. The contention on behalf of the State that, attempts to furnish the grounds of arrest to the family members of the son of the writ petitioner seem more plausible and acceptable than the contention advanced on behalf of the writ petitioner, at this stage.
20. As noted above, the wife of the son of the writ petitioner visited the police station on June 28, 2026, that is, the date subsequent to the date of the arrest. The probability of the police authorities attempting to serve the grounds of arrest on such family members of the arrestee cannot be ruled out at this stage.
21. In any event, there are remedies available to the arrestee in law.
22. Writ petitioner is aware that, his son was arrested in respect of the police case.
23. In such circumstances, we are not minded to invoke our extraordinary writ jurisdiction under Article 226 of the Constitution of India.

24. **WPA (H) 57 of 2026** is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

25. I agree.

(Ajay Kumar Gupta, J.)

(AD)