

West Bengal Form No. 3890
H.C. Criminal Form No.(M)20.

ORDER-SHEET

In the Court of the Judge, 24-Parganas 1st Special Court, Alipore.

Special Case No. 03/2024

(Bhowanipore P.S. Case No. 180 dtd. 01.05.2018)

State Vs. Palash Dutta

Present : Smt. Kumkum Singha, Judge

Order no. 13 dated 12-06-2025

Today is fixed for Order of discharge petition filed u/s 227 of Cr.P.C filed by the accused petitioner Palash Dutta.

Accused Palash Dutta on C.B. is present by filing hazira.

Ld. PP Pradip Sadhukhan is present. Ld. Defence counsel is also present.

The petition is heard on 05.05.2025. It is submitted by the Ld. Counsel of the petitioner that this accused was the Store Keeper of Medical Department, Bangur Institute of Neuro Science and he admitted his status that on 25.01.2018 when one Amit Mondal got admission at their hospital for the purpose of treatment, he was on the same post. In the petition he categorically denied the allegations made in the written complaint lodged by father of said Amit Mondal. It is also stated in the petition that as per allegation Amit Mondal was admitted at the institution on 25.1.2018 in bed no. 22 under the supervision of **Dr. D.K. Roy**. For the purpose of his treatment medical officers prescribed for supply of clinical articles or equipments costing Rs. 7.5 lacs for Angio intervention (Brain operation). It is further alleged that at the time of processing of the said file the present petitioner demanded illegal gratification which was denied by the complainant. As a result the accused withheld the file for long time and finally the sanction order was passed on 21.04.2018 but the son (Amit Mondal) of the complainant died on 24.4.2018. It is the allegation that as the complainant failed to meet the demand of bribe for the purpose of processing the file, he deliberately withheld the same and as a result when that was finally approved

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after one month the victim died on 24.4.2018. Thus, out of anger on 27.04.2018 when they went to meet the accused person to explain him the fate of his demand resulting to death of their son then he started abusing them with filthy languages as well as physically assaulted them. So, the instant complaint have been lodged. It is submitted by Ld. Defence counsel orally as well as mentioned in the petition that from the statement of Jharna Mondal u/s 164 Cr.P.C. Ld. Court will not find that any physical assault etc. were caused by Palash Dutta towards them on 27.4.2018. It is sure and certain that if anyone's young son dies untimely it becomes unbearable for his parents and then everybody tries to put blame upon other for such misfortune but the said fact of physical assault and also abuse are not corroborated by any statement of individual witnesses even in this prima facie stage. It is further submitted that when the alleged incidence took place there was existence of C.C. T.V and Camera inside the hospital premises. No such digital document has been collected by I.O. to establish the said prima facie allegation of physical assault and abuse. It is further submitted that when the FIR was lodged there was no material of demand of bribe, so it can be assumed that the allegation of demand of bribe was manufactured later on to make this accused as a scapegoat. It is further stated in the petition that Palash Dutta first received the requisition on 22.03.2018 through Sister in-charge R. Chakrabarti. Then and there he not only estimated the cost but also submitted the same before their Accounts Officer Debasish Chowdhury where the Accounts Officer put a note for seeking approval and sanction by Health and Family Welfare Department, Govt. Of West Bengal and he himself placed the same before Dr. A.K. Roy, the then Director BIN. But he did not approve the said requisition on the same date on the ground of his business in other field. According to the statement of petitioner thereafter two or three occasions through A.O. attempts were made to get signature but those attempts were not materialised and thereafter on lapse of one month when again that requisition was placed, it was directed to prepare another notesheet as per instruction

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of A.O. and then on 21.04.2018 that was approved. The patient died on 24.04.2018 as even after sanction order equipments were not supplied. So if any responsibility is there that is due to delay of Dr. A.K. Roy, the Director who did not sign on the said requisition whereas the patient was admitted at his institution. It is also mentioned in course of argument that untimely death of Amit Mondal is surely a very sorrowful affair but behind the delay this accused person was noway involved. It is further submitted that even it is accepted that said accused demanded bribe from them for the purpose of processing the file, Ld. Court will not find any such complaint during that period of one month against this accused before his any authority. It is also submitted that actually the petitioner had got no role for procurement of questioned equipment except to forward the same on being received from the hospital. It is also clear that this person was not the authority to approve, so the allegation raised in this case against this accused shifting the liability on him trying to give the explanation of delay in approval on the ground of demand of bribe. From the CD Ld. Court will not get any document in support of demand or subsequent incidence as alleged. So, the false allegation raised against this accused should not be entered into a process of trial against this accused person. As the prima facie case is not made out from the available evidence in the C.D. thus it can be said that there was no material against this accused to go into trial and thus he should be discharged from this case.

Ld. PP argued that if no material is found in the C.D. Ld. Court may pass appropriate order to that effect.

Considering the submissions of both sides. C.D. is perused thoroughly. Sec. 227 of Cr.P.C. provides that "if upon consideration of the record of the case and the documents submitted therewith and after hearing the submission of the accused and the prosecution in this behalf, the Judge considered that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing". So, the expression hearing the submission of accused means

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the hearing of the submission of the accused on record of the case and the documents as filed by the prosecution. At the stage of passing any order on the basis of petition Sec. 227 Cr.P.C. the court has to see the evidence and documents collected by Investigating Officer and submitted along with the charge-sheet and it is also to see whether there is any sufficient ground to proceed the case on the basis of said documents and evidence. The prima facie case is to be tested on the basis of available records in the C.D. placed before the court. It is true that at the time of disposal of petition u/s 227 Cr.P.C. court had not to see every pros and cons of the matter and to consider the evidence which is required after completion of trial. In this case, I find that there are numbers of statements recorded u/s 161 Cr.P.C. of the witnesses also of the accused as well as statement recorded by Ld. Magistrate u/s 164 Cr.P.C. of some of the listed witnesses. The medical reports are also perused from where I find that in this particular case the relevant file was placed after expiry of one month from the date of its first submission before the appropriate authority, the Director, for approval of fund for the purpose of purchasing costly items required for the surgery of the victim. Here, I also find that though initially the case in the FIR was started on allegation of physical assault and abuse but when the Investigating Agency collected some evidence to find out the actual reason of such conduct of the accused, then the factum of demand of bribe etc. came out. Finally the charge-sheet was submitted against this accused under provisions of IPC as well as Prevention of Corruption Act. So, in my opinion the documents available in C.D. are sufficient enough to reach to the conclusion that trial is very much necessary to unearth the truth and thus at this stage I think it would not be just to discharge the accused from this case ignoring all the evidence on record collected by Investigating Officer. I think it would also not be justified to discuss the merits of the case in detail at the time of disposal of discharge

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petition resulting to cause prejudice to the right of the parties and thus the instant petition is liable to be rejected on contest.

Hence, it is

Ordered

that the instant petition filed u/s 227 of Cr.P.C. praying for discharge of the accused Palash Dutta is rejected on contest.

To fix 07-07-2025 for framing of charge.

C.D. is to be returned back to the Ld. PP.

Accused as before.

Dictated & corrected by me

Sd/-
Judge

Sd/-

Judge(WB00712)
24-Parganas 1st Special Court, Alipore.