

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s).2369/2026

[Arising out of impugned final judgment and order dated 20-01-2026 in CAN No. 1/2026 passed by the High Court at Calcutta]

THE STATE OF WEST BENGAL & ORS.

Petitioner(s)

VERSUS

SUVENDU ADHIKARI & ORS.

Respondent(s)

(IA No. 42562/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 42566/2026 - EXEMPTION FROM FILING O.T., IA No.43764/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

W.P.(Crl.) Diary No.7368/2026

Date : 11-02-2026 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JOYMALYA BAGCHI

For Petitioner(s) :Mr. Kalyan Bandopadhyay, Sr. Adv.
Mr. Kunal Mimani, AOR
Mr. Sirsanya Bandopadhyay, Adv.
Mr. Parag Chaturvedi, Adv.
Mr. Arka Kumar Nag, Adv.

For Respondent(s) :Mr. P.S. Patwalia, Sr. Adv.
Mr. Billwadal Bhattacharya, Sr. Adv.
Mr. Siddhesh Shirish Kotwal, AOR
Ms. Ana Upadhyay, Adv.
Ms. Manya Hasija, Adv.
Mr. Anish Kr. Mukherjee, Adv.
Mr. T.illayarasu, Adv.
Mr. Saurabh Guha, Adv.
Mr. Shubhansh Patel, Adv.
Ms. Anupriya Poddar, Adv.
Mr. Mani Aneja, Adv.
Mr. Suryaneel Das, Adv.
Mr. Chiranjit Pal, Adv.
Ms. Megha Datta, Adv.
Mr. Tamoghna Pramanick, Adv.

Mr. S.V. Raju, ASG
Mr. Aman V., Adv.
Mr. Hitash Raja, Adv.

Mr. Bhuwan Kapoor, Adv.

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

Special Leave to Appeal (Crl.) No.2369/2026

1. The instant special leave petition is directed against a self-speaking interlocutory order dated 20.01.2026 passed by a Division Bench of the High Court at Calcutta, containing various directions, *inter alia* keeping it open for the Central Government to take an appropriate decision regarding conduct of investigation by invoking powers under sub-section (5) of Section 6 of the National Investigating Agency Act, 2008.

2. We have heard Shri Kalyan Bandopadhyay, learned Senior Counsel, in support of the prayer made in this petition on behalf of the State as well as Shri S.V. Raju, learned Additional Solicitor General of India, representing the NIA along with Shri P.S. Patwalia, learned Senior Counsel, representing the writ petitioner before the High Court.

3. It is a matter of record that pursuant to the discretionary option given by the High Court in the impugned order, the Government of India, Ministry of Home Affairs, has *vide* order dated 28.01.2026 directed the National Investigating Agency to take up the investigation of FIR No.51 dated 17.01.2026, registered by West Bengal Police at Police Station Beldanga, District Murshidabad, under different provisions of the West Bengal Maintenance of Public Order Act, 1972, National Highway Act, 1956, Bharatiya Nyaya Sanhita, 2023 and Prevention of Damage to Public Property Act, 1984, etc.

4. One of the contentions of Shri Kalyan Bandopadhyay, learned Senior Counsel representing the State of West Bengal, is that even in the absence of any investigation by NIA or any material in support thereof, the order passed by the Government of India specifically recites that the allegations contained in the subject FIR attract Section 15(1)(a) of Unlawful Activities (Prevention) Act, 1967 (in short, 'UAP Act').

5. In this regard, we do not deem it appropriate to express any opinion on the merits of this matter at this decidedly premature stage. It will instead suffice to direct the National Investigating Agency to submit its report, post-investigation or during the course of investigation, before the Division Bench of the High Court in a sealed cover as to whether on the basis of the material/information gathered by it, any *prima facie* case for investigation under provisions of the UAP Act is made out or not.

6. Since there are only passing observations in the impugned order of the High Court, without any definite opinion in relation to attraction of the above-stated Act, we request the High Court to consider the status report/report to be submitted by NIA independently after hearing the parties.

7. It goes without saying that the issue as to whether the provisions of UAP Act are attracted or not, shall be decided by the High Court.

8. The Special Leave Petition is, accordingly, disposed of with the above directions/clarifications.

9. At this stage, it has been brought to our notice by Shri Kalyan Bandopadhyay, learned Senior Counsel, that State of West

Bengal has filed a separate Writ Petition (Crl.) Diary No.7368/2026 before this Court challenging the order dated 28.01.2026 of the Government of India, whereby the investigation has been entrusted to NIA.

10. We are of the view that the legality of that order can also be, at this stage, examined by the High Court, which is already seized of the matter.

11. Consequently, we take the Writ Petition (Crl.) Diary No.7368/2026 on Board and dispose of the same by transferring that writ petition to the High Court at Calcutta.

12. It is further directed that the above-stated fresh writ petition, filed by State of West Bengal, shall also be heard by the Division Bench headed by Hon'ble Chief Justice of the High Court before whom WPA(P) No.153/2025 and other connected matters are currently pending.

13. Needless to say, the petitioner(s) are at liberty to raise all their contentions before the High Court.

14. It is clarified that we have not expressed any opinion on the merits and/or maintainability of that writ petition.

15. All pending applications, if any, also stand disposed of.

(ARJUN BISHT)
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)
ASSISTANT REGISTRAR