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14.3.2019
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Allowed

**Circuit Bench of
Calcutta High Court
at Jalpaiguri
Appellate Side**

C.R.M. 04 of 2019

Re: Application under section 439 of the Code of Criminal Procedure filed on 11.03.2019 in connection with Mirik Police Station Case No. 80 of 2017 dated 19.07.2017 under sections 147/148/149/323/353/307/427/436 of the Indian Penal Code read with sections 3 and 4 of the Prevention of Damage to Public Property Act read with sections 8, 9, 15A and 15B of the West Bengal Maintenance of Public Order Act, 1972 read with sections 25/27/35 of the Arms Act.

In Re: Smt. Shanti Rai

... Petitioner

Mr. Urgen Lama

... For the Petitioner.

Mr. Nilay Chakraborty

Mr. Aniruddha Biswas

... For the State.

The petitioner is seeking bail in connection with the offence under sections 147/148/149/323/353/307/427/436 of the Indian Penal Code read with sections 3 and 4 of the Prevention of Damage to Public Property Act read with sections 8, 9, 15A and 15B of the West Bengal Maintenance of Public Order Act, 1972 read with sections 25/27/35 of the Arms Act.

It is submitted by the learned advocate that the petitioner is an elected Councillor/Member of Kurseong Municipality. It is also submitted that the petitioner is not named in the First

Information Report and she was detained in custody in connection with Kurseong Police Station Case No. 202/2018 dated 9th December, 2018 since 10.12.2018 and has been shown arrested in connection with this case on 02.03.2019 and she is now in custody for about 13 days. He further submits that the petitioner has already been granted bail in connection with Kurseong Police Station Case No. 202 of 2018 on 31.01.2019 in C. R. M. 1174 of 2019. He further submits that the investigation has already been concluded and Charge Sheet has been submitted and there is no need for further detention of the petitioner.

The learned advocate for the State opposes the prayer for bail and submits that there is a chance of her absconding, if she is released on bail.

Having considered the submissions made on behalf of the respective parties and the materials in the case diary and further that the investigation has already been concluded and Charge Sheet has been submitted, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.2,000/- with two sureties of like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate at Kurseong, subject to the primary condition that during bail she shall not enter the local jurisdiction of the concerned Police Station wherefrom the First Information Report has emanated and must not tamper with the evidence nor intimidate the witnesses in any manner whatsoever and shall attend the Court regularly and face the trial.

In the event of violation of any of the above conditions, the learned Court below shall be at liberty to cancel the bail of the petitioner without any further reference to this Court.

The application for bail is allowed accordingly.

C. R. M. 04 of 2019 is thus disposed of.

Urgent Photostat certified copy of this order, if applied for be given to the parties upon compliance of all formalities.

(Biswanath Somadder, A.C. J.)

(Md. Mumtaz Khan, J.)