

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA**  
**Criminal Revisional Jurisdiction**  
**Appellate Side**

Present:

**The Hon'ble Justice Jay Sengupta**

**CRR 1552 of 2020**

**Samarpan Sharma**  
**Vs.**  
**Indrani Das & another**

For the Petitioner : Mr. Md. Sabir Ahmed  
: Mr. Amal Kumar Banerjee  
: Mr. Apan Saha

For the State : Mr. S.G. Mukherjee, Ld. PP  
: Mr. Arijit Ganguly

Heard on: 15<sup>th</sup> December, 2020

Judgment on : 15<sup>th</sup> December, 2020

**The Court:**

This is an application challenging an order dated 15<sup>th</sup> September, 2020 passed by the learned Additional Session Judge, Birbhum at Rampurhat in Criminal Misc. Case No. 217 of 2020, thereby, *inter alia*, granting interim bail to the accused-petitioner on condition that the accused would marry the victim within a month from the date of release on bail.

Affidavit of service filed on behalf of the petitioner is taken on record. It does not appear that the notice could reach the defacto-complainant.

However, a copy of the intimation served upon the defacto-complainant victim by the Investigating Officer of the case as filed on behalf of the State is taken on record. It shows that the defacto-complainant was indeed notified about the pendency of the instant revision on 09.12.2020.

No one appears on behalf of the defacto-complainant/opposite party.

Learned counsel appearing on behalf of the petitioner submits as follows. Although it was recorded by the learned Session Judge that the accused had shown his willingness to marry the victim, no such instruction was actually given by the accused to his lawyer. As such, the implicit undertaking to marry the victim was wrongly recorded by the learned Court. Besides, the interim bail was granted after perusal of materials in the case diary. As such, the condition to marry the victim may be set aside.

Learned counsel appearing on behalf of the State opposes the application and submits as follows. Had the learned Court passed an order on merits, no such condition as to marry the victim girl would have been passed. Moreover, instead of interim bail, a final order of bail would have been passed. The order of interim bail was passed

primarily on the undertaking given by the accused-petitioner that he wanted to marry the victim girl.

I have heard the submissions of the learned counsels appearing on behalf of the petitioner and the State and have perused the revision and the impugned order.

Although the merits of the case were briefly discussed, the learned Court seems to have proceeded to grant interim bail to the accused petitioner mainly on being swayed by the undertaking given on behalf of the petitioner that the petitioner would marry the victim girl. Without any such undertaking, the learned Court could not pass such an order granting interim bail to the petitioner. If the Court had passed such an order in the absence of such undertaking, then the order granting interim bail could have remained and the condition to marry could have been set aside.

However, it appears to be quite clear that the learned Court proceeded to grant interim bail to the petitioner on the undertaking given on behalf of the petitioner that he would marry the victim.

Since, the petitioner has resiled from such undertaking, this Court has no option but to set aside the entire impugned order passed by the learned Court and remand back the matter for fresh consideration.

In view of the above, the impugned order is set aside. Let the case be remanded back to the Court of learned Additional Sessions

Judge, Birbhum at Rampurhat, so that a fresh order be passed on merits after hearing all the concerned parties.

Let the application for bail be decided afresh by the learned Court as expeditiously as possible.

With these observations, the revisional application is disposed of.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

**(Jay Sengupta,J.)**