

09.08.2021

Ct No. 35

D/L 16

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C.R.R. 14 of 2021
(Via Video Conference)

Re: An application under Sections 482 read with Section 401 of the Code of Criminal Procedure, 1973.

In re : Najimuddin Mondol,

... Petitioner

Mr. Sekhar Kumar Basu,
Mr. Diptangshu Basu,
Ms. Suchismitaa Dutta,

... for the petitioner

Mr. Saibal Bapuli,
Mr. Arijit Ganguli,
Mr. Arani Bhattacharyya,

... for the State

Despite service, no one appears for the opposite party no. 2.

In this revisional application, the petitioner has challenged an order dated December 9, 2020, passed by the learned Sessions Judge (In-Charge), Murshidabad, in Criminal Misc. Case No. 623 of 2020, whereby the learned Judge cancelled the order of bail granted to the petitioner on August 9, 2019, in connection with G.R. Case No. 1085 of 2019, arising out of Domkal Police Station Case No. 215 of 2019 dated 19.03.2019 under Sections 341/324/326/307/302/34 of the Indian Penal Code, 1860 pending before the learned Chief Judicial Magistrate, Murshidabad.

It appears that the petitioner was apprehended in connection with the above case on March 21, 2019. The charge sheet, in this case, was filed on June 14, 2019, and the bail was granted to the petitioner on August 9, 2019.

After the bail was granted to the petitioner, on the prayer of the de facto complainant, the learned Sessions Judge, by the order impugned dated December 9, 2020, cancelled the bail of the petitioner observing that the petitioner “is trying to and also tried to disturb the trial by killing the members of the family deceased in respect of Domkal P.S Case No. 215/2019 dated 19.03.2019 and as such, I am of the opinion that the act of the respondent should be described as supervening circumstances.”

It was a further ground of the learned Sessions Judge that the petitioner was granted bail on the ground of parity with one Siraj Mondal, and the said Siraj Mondal was granted bail giving an impression to the Court that the charge sheet in the case had already been filed, but on the date of granting bail to Siraj Mondal, the charge sheet was not filed.

A report was called for from the State. It appears from the said report that the petitioner was arrested on March 19, 2019, in connection with another case being the Domkal Police Station Case No. 215/2019 dated 19.03.2019 and the date of the alleged incident of the present case i.e. Domkal Police Station Case No. 384/2019 is June 15, 2019. The report suggests that the involvement of the petitioner in connection with the present case could not be established, as he was then already detained in jail

custody in connection with Domkal Police Station Case No. 215 of 2019.

It may so happen that the petitioner was granted bail on the ground of parity with Siraj Mondal, who was another co-accused in the case, but the fact remains that the petitioner was granted bail on the date when the charge sheet was already filed by the investigating agency. Therefore, the petitioner did not get the bail on the erroneous impression that the charge sheet had not been filed in the case.

That apart, the order granting bail reflects that the learned Judge, after taking into consideration all other aspects of the matter, granted the bail to the petitioner.

A bail order should not be cancelled merely on the basis of some allegations regarding post bail conduct. A case of overwhelming circumstances has not been made out that justifies the cancellation of bail.

In view of the aforesaid, the order impugned dated December 9, 2019, is, hereby, set aside.

The revisional application being **C.R.R. 14 of 2021** is allowed.

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

(Kausik Chanda, J.)