

20.12. 2021
item No.16
n.b.
ct. no. 34

(Via video conference)

C.R.M 849 of 2021

In Re: An application for Cancellation of bail under
Section 439(2) of the Code of Criminal Procedure, 1973

And

**In the matter of : Windsor Marketiers Private Limited
.... Petitioner.**

Mr. Mr. Phiroze Edulji,
Mr. Somopriyo Chowdhury,
Mr. Kausik De,
Mr. R. Ray,
Ms. Mohini Majumdar,
Mr. R. Munshi

.....For the Petitioner

Mr. S.G. Mukherjee, Ld. P.P.
Mr. Sarjati Datta,

... for the State.

Mr. Debajyoti Deb,
Mr. Sanjoy Kumar Das,

For the O.P. No.2

Report submitted by the learned advocate for the State be
kept with the record.

Report reflects that the Case Diary was not produced on
the date when the interim bail was allowed by the Learned
Magistrate. It has been submitted by the learned advocate for the
parties that till date the said interim bail is continuing.

Mr. Edulji, learned advocate appearing for the petitioner
submits that apart from the manner in which the interim bail was
granted by the learned Magistrate without perusal of the Case

Diary, the opposite party no.2 has misused the liberty granted to him.

Mr. Debajyoti Deb, learned advocate appearing for the opposite party no.2 opposes such submission made on behalf of the petitioner.

The report submitted by the police authority also reflects that charge-sheet has been submitted in the meantime.

Having regard to the Judgment passed by the Hon'ble Supreme Court in the case of Satender Kumar Antil Vs. Central Bureau of Investigation and Anr. reported in 2021 SCC OnLine SC 922, I direct that on the next date so fixed, the opposite party no.2 will appear before the Court and the learned Magistrate after considering the Case Diary would pass an order on the merits of the bail application or the application for confirmation of bail so pending or proposed to be filed on the said date.

As all the parties are present before this court, no notice need be issued. The informant/defacto complainant, the accused opposite party no. 2 both will be present on the said date. The Investigating officer is directed to be present along with Case Diary.

In view of the present application the informant/complainant will be allowed an audience before the learned Magistrate, and the court would consider the Case Diary and thereafter finally dispose of the application.

Needless to state that this court has not gone into merits of the case and is also not directing for cancelling the bail, it would be an independent consideration of the learned Magistrate after

taking into account all parameters associated with the principles of bail to take his own decision.

With the aforesaid observations CRM 849 of 2021 is disposed of.

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

(Tirthankar Ghosh, J.)