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Ct. 30

CRM 1620 of 2019

(Via Video Conference)

In Re: an application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure, 1973 in connection with Sonarpur Police Station Case No. 794 of 2018 dated 24.05.2018 under Section 420/448/471/120B of the Indian Penal Code.

And

In the matter of:

Mrs. Dulali Das

Vs.

The State of West Bengal & Ors.

Mr. Ranjit Kumar Roy
..for the petitioner

Mr. P. K. Datta, APP
Mr. Santanu Deb Roy
...for the State

This is an application under Section 439 (2) of the Code of Criminal Procedure filed by the de facto complainant/petitioner praying for cancellation of bail granted in favour of one Mitali Sarkar and Swapan Sarkar in connection with Sonarpur P.S. Case No.794 of 2018 dated 24.05.2018 under Section 420/448/468/471/120B of the Indian Penal Code.

There is no dispute on the statutory provision that the High Court as well as the Court of Session has the

concurrent jurisdiction to entertain an application under Section 439(2) of the Code of Criminal Procedure if a person is released on bail under Chapter XXXIII of the Code.

Since the application under Section 438 of the Code of Criminal Procedure was disposed of by the learned Sessions Judge, judicial propriety demands that the prayer for cancellation of bail should be filed and disposed of by the said Court.

Therefore, the petitioner is at liberty to file an appropriate application before the learned Sessions Judge.

Before I part with I like to record that in the order dated 06.10.2018 allowing the bail under Section 438 of the Code of Criminal Procedure the learned Sessions Judge must observe that the police did not take any step to verify the signature of Bimal Chandra Das on the alleged forged 'Baynanama'. Thus, it is clear that course of investigation was found to be not satisfactory by the learned Sessions Judge.

If any such application for cancellation of bail is filed before the learned Sessions Judge, he will look into the matter in the C.D. as to whether the investigation is going on in its proper direction and whether for proper investigation, detention of the accused persons is necessary for cancellation of bail.

In the meantime, the police attached to Sonarpur P.S. is directed to give proper protection to the petitioner and her

constituted attorney so that they may not be threatened or harassed by the accused persons.

CRM 1620 of 2019 is, thus, disposed of.

(Bibek Chaudhuri, J.)