

08.06.2021

Sl. No. 03
CHC/
Mithun
Ct.No.19.

CRM/5313/2014
(Via Video Conference)

In the matter of:

Md. Asraf Ali ...petitioner

Mr. Shibaji Kumar Das

...for the petitioner

Mr. Prasun Kumar Datta, Ld. A.P.P.

Mr. Pradipta Ganguli

...for the State

Bail granted to the opposite party no.2 by the learned Magistrate on 27th March, 2014 is sought to be cancelled by filing the instant application by the complainant/petitioner.

The petitioner filed a complaint on 1st July, 2013, before the learned Judicial Magistrate, Hooghly against the opposite party no.2 under Sections 406/420/465 of the Indian Penal Code. By the order dated 13th September, 2013 the learned Judicial Magistrate, 5th Court, Hooghly, in whose court the case was transferred for examination of the complainant and witnesses and issuance of process under Section 200 Cr.P.C. read with Section 204 of the Code of Criminal Procedure, postpone the issuance of process, sent the complaint to police authority for enquiry and report under Section 202 of the Code.

Learned advocate for the petitioner draws my attention to the observation made by the learned Judicial Magistrate vide

order dated 13th September, 2013 wherein he observed that the allegation is of a serious in nature which involves treating of the general public at large and also of criminal Breach of trust. Moreover, the matter is of a serious nature as it involves functioning of a religious organization called “Darul” Ulum Madrasa located at Pandua. The allegation is also in respect of huge financial anomalies regarding running of the said religious organization. Subsequently, police submitted report under Section 202 of the Code and the learned Magistrate issued process against the accused under Sections 420/406/465 of the Code vide order dated 25th November, 2013.

It is the grievance of the learned advocate for the petitioner under instruction that on 27th March, 2014, the accused surrendered before the trial court and learned Magistrate granted bail considering the fact that he voluntarily surrenders to face trial in the case.

It is submitted by the learned advocate for the petitioner that being a case of serious in nature, the opposite party no.2 ought not to have granted bail only on the ground that he voluntarily surrendered before the Court.

Learned advocate for the State has opposed the prayer for cancellation of bail.

Mr. Das, learned advocate for the petitioner candidly submits that before the trial court, trial of this case is going on. Bail was granted by the petitioner in the year 2014. In the meantime, 7 years have elapsed. I have already recorded that

the case is at the stage of trial. At this stage, only for coercive purpose liberty of the accused/opposite party No.2 cannot be curtailed which he is enjoying for last 7 years. There is no allegation that opposite party No.2 has tampered with the evidence or threatened the witnesses during the trial of the case.

In view of the circumstances, merit of the case does not deserve cancellation of bail of opposite party No.2.

Accordingly, the application being C.R.M. No.5313 of 2014 is dismissed.

The opposite party No.2 is, however, directed to remain present on each and every date of trial so that the process of trial may not be hampered or delayed in any manner.

(Bibek Chaudhuri, J.)