

29.01.2021
Item No.37
Ct. No.42
CHC

**C.R.R. No.1815 of 2020
(Physical Hearing)**

In Re: An application under Section 407 read with Section 482 of the Criminal Procedure Code, 1973.

In the matter of:-

Sm. Swapna Golder & anr.
.....petitioners

Mr. Kazi Safiullah
... for the petitioners

Mr. Madhusudan Sur, Ld. A.P.P.,
Mr. Dipankar Paramanick
... for the State

This is an application under Section 407 read with Section 482 of the Code of Criminal Procedure, seeking transfer of a case now pending at Balurghat, Daskin Dinajpur vide Hilli Police Station Case No.145 of 2019 dated 13.09.2019 under Sections 420/468/471 of the Indian Penal Code read with Section 14A(b) of the Foreigners Act, to the Court of learned Chief Judicial Magistrate, Barasat, North 24 Parganas.

Mr. Safiullah, learned advocate representing the petitioners submits that petitioners have been facing much difficulties and hardship to ensure their presence before the court below as the court below concerned has been insisting upon securing presence of the petitioners on the dates stipulated for the purpose.

It is further submitted that the petitioners being resident of Barasat, North 24 Parganas, the case would be conveniently conducted if the case is transferred from Balurghat Court to the Court of learned C.J.M, Barasat.

Mr. Sur, learned advocate representing the State submits that in this case charge-sheet has been submitted on 9th November, 2019 with a prayer for submission of supplementary charge-sheet if needed.

The attention of the Court is drawn by Mr. Sur to the order of the Hon'ble Division Bench passed in C.R.M. 11689 of 2019 granting bail to the petitioner stipulating some conditions therein:

“that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and.....”.

Referring such conditions of the bail order already imposed, Mr. Sur submits that if any order is passed in this revisional application that will tantamount to causing modification of an order passed by Hon'ble Division Bench, while releasing the petitioner on bail. More so, an application for modification of the condition is pending at the moment for hearing. Though the petitioners have attempted to establish the hardship, the petitioners have been facing by reason of ensuring appearance before the court below, but this Court should not interfere at this stage bearing in mind the order of the Hon'ble Division Bench granting bail to the petitioner.

Since the hardship suffered by the petitioners is the only ground in support of the transfer, the Court is of the view that the same may be considered after the case is committed to the court of sessions and accordingly, this revisional application stands disposed of with the observations mentioned hereinabove.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Subhasis Dasgupta, J.)