

15.01.2021
Mithun
Sl. No.25
D/L.
Ct.No.30

CRR/1919/2020

In the matter of : Biswanath Sarkar & Anr.

...the petitioners.

Mr.Arindam Jana, Adv.,
Mr.Soumajit Chatterjee, Adv.

... for the petitioners.

Mr.Swapan Banerjee, Adv.,
Mr. Purnima Ghosh, Adv.

...for the State.

Legality, validity and propriety of an order dated 30th September, 2020 passed by the learned Sessions Judge-in-Charge, Cooch Behar rejecting an application filed by the petitioners for modification of the condition of bail is assailed in the instant revision in connection with Kotwali Police Station Case No.852 of 2019 dated 2nd December, 2019 under Section 365/109 of the Indian Penal Code corresponding to G.R.No.1523 of 2019, the learned Sessions Judge, Cooch Behar granted bail to the petitioners with a condition to report to the Investigating Officer once in a week until further order.

The petitioners diligently went on complying with the said order. It is stated by the petitioners that in the meantime, from the month of March, 2020 a nationhood lockdown was started due to COVID pandemic. During the said period of lockdown

also up to the month of July, 2020, they regularly visited the Investigating Officer as per order of the learned Sessions Judge. Subsequently when the disease spread over the locality, they could not comply with the said condition and by filing Criminal Misc. Case No.1127 of 2020 they prayed for waiver of said condition in the Court of the learned Sessions Judge-in-Charge, Cooch Behar. However, the said condition was rejected on the ground that they had no right for modification after floating the order of the learned Sessions Judge.

Learned Advocate for the petitioners submits to the tune of the averment made in the instant revisional application. It is further submitted by him that the learned Sessions Judge-in-Charge ought to have taken judicial notice of the fact that even on the date of passing impugned order lockdown was in force and the citizen in general were instructed to keep safe distance and avoid free-mixing during the said period.

According to him the order passed by the learned Sessions Judge imposing condition was not violated by the petitioners but they were restrained by some supervening circumstances for which they could not visit the Investigating Officer of the case.

Mr. Banerjee, learned Advocate for the State has not raised objection against such prayer considering the prevailing situation at the relevant point of time. He frankly attempts that the petitioners were not in a position to comply with the condition imposed by the learned Sessions Judge.

It is not disputed that the order imposing condition to meet the Investigating Officer once in a week was passed in 17th January, 2020, the petitioners comply with the said order till July, 2020. Investigation has progressed to a considerable extent and I am of the view that at this stage if the said condition is waived, investigation will not suffer.

Accordingly, the instant revision is allowed on contest, however, without costs.

The order passed by the learned Sessions Judge-in-Charge, Cooch Behar on 30th September, 2020 in Criminal Misc. Case No.1127 of 2020 is set aside.

The petitioners do not require to meet the Investigating Officer further in compliance of the order dated 17th January, 2020 passed by the learned Sessions Judge.

Appointment of Mr.Swapan Banerjee with Purnima Ghosh dated 4th January, 2021 be regularized.

The petitioners are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J)