

15.03.2022
Item No.07
Suman
Ct.42

(Via Video Conference)

CRM (SB) 41 of 2022

In Re. An application under Section 439(2) of the Criminal Procedure Code for cancellation of bail.

And

In the matter of: **Sri Harendranath Kamila**
Vs.
The State of West Bengal & Ors.

Mr. Sabir Ahmed
Mr. Gauranga Kumar Das
Mr. Sandip Kumar Mondal
Mr. Sumit Routh
...for the petitioner

Mr. Prasun Kumar Dutta, APP
Md. Kutub Uddin
Mr. Santanu Deb Roy
...for the State

Mr. Prasun Kumar Datta, Md. Kutub Uddin and Mr. Santanu Deb Roy, learned advocates in the State panel be engaged to appear on behalf of the State. Their engagement be regularized by the concerned authority in due course.

This is an application for cancellation of bail granted by the learned Additional Chief Judicial Magistrate on 31st December, 2021 in favour of the private opposite parties.

Dholahat Police Station Case No.466 of 2021 dated 3rd December, 2021 under Sections

341/323/379/420/506/34 of the Indian Penal Code. The main allegation is against the opposite party No.1 who happens to be the nephew of the de facto complainant. After initiation of the case a notice under Section 41(A) of the Code of Criminal Procedure was served upon them. In compliance of the said notice, they met the Investigating Officer. Subsequently, on 31st December, 2021 they surrendered before the learned Additional Chief Judicial Magistrate, Kakdwip and the learned Additional Chief Judicial Magistrate granted bail on the ground that the accused persons surrendered voluntarily. They complied with the notice under Section 41(A) of the Code of Criminal Procedure. The case is triable by the Court of the Magistrate and, therefore, the accused persons were enlarged on interim bail.

It is submitted by Mr. Ahmed, learned advocate for the petitioner that specific allegation has been made against the accused/opposite party No.1 that he committed theft of gold and silver ornaments amounting to Rs.40 lakhs. As the bail was granted, the Investigating Officer did not get any opportunity to recover the said ornaments.

Having heard the learned advocates for the petitioner as well as the State, it is found on perusal of the order dated 31st December, 2021 that the opposite

parties were granted interim bail. There is no order that said interim bail was confirmed.

In view of such circumstances, the learned Additional Chief Judicial Magistrate, Kakdwip is directed to hear out the application for bail under Section 437 of the Code of Criminal Procedure and dispose of the matter after considering the materials in the C.D. and submission made by the learned A.P.P. attached to his Court and on perusal of the entire documents.

The instant application is, thus, disposed of with the above order.

Learned Additional Chief Judicial Magistrate, Kakdwip is directed to dispose of the application for bail within a fortnight from the date of communication of the order passed by this Court. The petitioner is at liberty to communicate this order obtained from the server.

(Bibek Chaudhuri, J.)