

10.05.2022

Sl. No. 09

Srimanta

Ct.No. 42

CRM (SB)/61/2022

In Re : An application under Section **439(2)** of the Code of Criminal Procedure, 1973.

In the matter of : **Priya Dey**

...petitioner.

Mr. Dattatreya Dutta, Adv.

...for the petitioner.

Mr. Avishek Sinha, Adv.

...for the State

Mr. Koustav Bagchi, Adv.,

Mr. Debayan Ghosh, Adv.,

Ms. Priti Kar, Adv.

...for the opposite party no. 2.

The petitioner is come up with the instant application praying for cancellation of bail of the accused.

The allegation against the accused is not only grave but also heinous and shock the conscience of every prudent person. The private opposite party is the father of the victim girl. It is alleged that the private opposite party sexually abused his own daughter. Subsequently on the basis of a written complaint Police registered a case under Sections 8/12 of the POCSO Act along with various penal provisions under the Indian Penal Code against the private opposite party.

It is alleged by the petitioner that after being released on bail, the opposite party has been threatening the *de facto* complainant and her mother and putting pressure upon them to withdraw the case instituted on the basis of the complaint made by the *de facto* complainant. The *de facto* complainant

informed the matter by lodging G.D. entries in the local Police Station.

On perusal of the impugned order dated 18th January, 2022 passed by the Learned Special Judge (POCSO Act) at Barrackpore it is found that the private opposite party was granted bail with a condition to remain present on each and every date of trial till the disposal of the case and shall not threaten witnesses and tamper evidence.

The Learned Advocate for the petitioner submits that the opposite party has violated the conditions of bail by threatening the *de facto* complainant and her mother.

A report was called for from the Investigating Officer. The Investigating Officer on due enquiry submitted a report stating, *inter alia*, that the opposite party had made contact with the petitioner and her mother requesting them for amicable settlement of the dispute.

Be that as it may, sine the petitioner is enjoying bail and an order of cancellation of bail is passed very sparingly only in rare circumstances, this Court is of the view that some more conditions ought to be imposed against the opposite party no. 1.

The opposite party no. 1 shall remain on bail as per the terms and conditions imposed by the Learned Special Judge (POCSO Act), Barrackpore with further condition that he shall not make any contact with the *de facto* complainant and her mother and secondly, he shall not enter into the jurisdiction of Nimta Police Station during the pendency of the case. The Investigating Officer is directed to seize the SMS or Whatsapp. Message between the opposite party and the *de facto* complainant and her mother in course of investigation on production of the *de facto* complainant. If the Investigating Officer feels that the said documents would be necessary for adjudication of the charge against the

petitioner, he is at liberty to file supplementary charge-sheet against the opposite party.

The instant application is, thus, **disposed of**.

(Bibek Chaudhuri, J.)