

21.11.2022
tkm/ct 28
sl no. 48

C.R.M.(DB) 1058 of 2022

In Re : An application for cancellation of bail under section 439(2)
of the Code of Criminal Procedure read with section 482 Cr.P.C
and

In Re : Austin Distributors Private Ltd. petitioner

Mr. Sanjay Banerjee
Mr. Sabyasachi Banerjee
Mr. S Chakraborti
Mr. B Mitra

..... For the petitioner

Mr. Sanat Kr. Das
Mr. Sujan Chatterjee

.... For the OP no. 2

Ms. Faria Hossain
Mr. A Keshari

.... For the State

Affidavit in reply enclosing order confirming bail is placed on
record.

Mr. Banerjee, learned counsel appearing for the petitioner
submits opposite party no. 2-accused was the Chief Executive
Officer of the petitioner company. In collusion with co-accuseds he
had wrongfully given cash discounts, misappropriated monies
received as sale consideration from sale of vehicles to direct sale
agents. Without considering the involvement of the opposite party
2-accused, he was enlarged on bail.

Learned lawyer for the opposite party no. 2-accused disputes
such fact. He submits he did not play any role in the cash
discounts and the sale of vehicle to direct sale agents. These

activities were carried on by his subordinate. He has been falsely implicated in the instant case.

In reply, it is contended on behalf of the petitioner-de facto complainant that opposite party no. 2 issued circular stating that he shall handle the cases involving direct sale agents.

Learned lawyer for the State submits that signatures in the cash memos issued with regard to monies received in connection with sales to direct sale agents do not tally with the signature of the opposite party no. 2-accused

We have considered the materials on record. Opposite party no. 2-accused was the Chief Executive Officer of the petitioner firm. He was in overall supervision of the affairs of the firm. It is alleged that the sale considerations with regard to sale of vehicles to direct sale agents were not accounted for. Cash memos collected in the course of investigation were sent to hand writing expert. Opinion of expert shows that the signatures on the said documents do not tally with that of the opposite party no. 2. This improbabilises the contention of the petitioner that the circular issued by opposite party no. 2 empowering himself to handle transactions through direct sale agents was, in fact, implemented.

In view of the aforesaid circumstances, we are of the considered opinion order granting bail to the opposite party no. 2 accused does not merit interference.

Observations made by us are for the purpose of disposal of the application and shall not have any bearing at the subsequent

stage of the proceeding which needless to mention shall be decided independently and in accordance with law.

With the above observations CRM (DB) 1058 of 202 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)