

12.05.2022
Subha
Supple list
Item no.01
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 1410 of 2022

In the matter of : **Sumit Adhikari**petitioner.

In Re : An application under Sections 397/401 read with Section 482
of the Code of Criminal Procedure.

Mr. Sourav Chatterjee
Mr. Rajdeep Majumder
Mr. Moyukh Mukherjee
Mr. Pritam Roy
Mr. Koustav Lal Mukherjee
Ms. Aishwaryta Bazaz

.....for the petitioner.

Mr. Arijit Ganguly
Mrs. Debjani Sahu

....for the State.

The subject matter of challenge relates to the order dated
01.04.2022 passed by the learned Judge, Special Court under
POCSO Act cum Additional Sessions Judge, 2nd Court, Howrah.

Mr. Chatterjee, learned advocate appearing on behalf of
the petitioner submits that the observation of the learned trial
court in respect of Section 226 and Section 227 of the Code of
Criminal Procedure and its subsequent interpretation in fact
would make the provisions of Section 227 of the Code of Criminal
Procedure redundant. A court of law has to balance between the
different sections appearing in the Code of Criminal Procedure. If
the court is of the view that the prosecution must place its view

first for the purposes of bringing the materials available to the notice of the court as to whether charges can be framed on the materials already available on record, the court at the same stretch has also to consider the grounds of discharge prayed for by the accused persons. No charge can be framed without disposing of the application under Section 227 of the Code of the Criminal Procedure.

Mr. Arijit Ganguly, learned advocate after being served by the petitioner appeared and represented the State. His appearance may be regularized by the concerned authorities in due course.

Mr. Ganguly, learned advocate for the State has opposed the contentions advanced on behalf of the learned counsel for the petitioner and substantiated the reasons assigned by the learned special court.

Having regard to the same, I direct the learned trial court to allow the Public Prosecutor to present his case and not to customize the regular practice of the draft charges. As the Public Prosecutor in this case has prayed for bringing the materials on record at the stage of the consideration of the charge, he may be allowed/permitted to place the case against the petitioner, thereafter, the learned court would allow the learned defence counsel to place his case for discharge and after the same is completed, the learned trial court would consider whether it should frame the charge or discharge the accused.

The order dated 01.04.2022 so far as the observations made that the application under Section 227 of the Code of

Criminal Procedure is premature is hereby set aside. The learned trial court is directed to rehear the application under Section 227 of the Code of Criminal Procedure.

It has been submitted that the next date has been fixed on 20th May, 2022. The learned trial court would take efforts for hearing the Public Prosecutor on the said date. The defence counsel also if possible on the same date or continue the hearing of the case till the hearing of Section 226 of the Code of Criminal Procedure and Section 227 of the Code of Criminal Procedure is concluded by both the parties and thereafter pass an order of either framing charges or discharging the accused by 10th June, 2022.

With the aforesaid observations, the revisional application being CRR 1410 of 2022 is disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

