

07.11.2022
Sl. No.89
akd

C. R. M. 3755 of 2018

In Re : An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure filed on 06.06.2018 :

A N D

In Re : Syed Kawsar Ali ***..... Petitioner***

Mr. Pratip Kumar Chatterjee
... .. for the petitioner

Mr. Monish Sen
Ms. Oisani Mukherjee
... .. for opposite party nos. 2 to 8

Mr. Pratip Kumar Chatterjee, learned advocate appearing for the petitioner submits that the impugned order dated 7th March, 2018 granting bail to the opposite party nos.2 to 8 is based on erroneous considerations. Notice under Section 41A of the Code of Criminal Procedure was issued upon opposite party nos.2 to 8 though the FIR was registered for offences punishable with life imprisonment. It is also argued gravity of the offence was not considered.

In response, Mr. Monish Sen, learned advocate for the opposite party nos. 2 to 8 submits his clients are on bail for more than five years. They have not misused their liberty and are regularly attending court proceedings.

We have considered the materials on record. Initially, FIR was registered for various offences including offences punishable under Sections 326/307 IPC. Hence, Investigating Agency ought not to have resorted to notice under Section 41A of the Code of Criminal Procedure. Be that as it may, opposite party nos.2 to 8 responded to the said notice and cooperated with the investigation. In conclusion of investigation, charge-sheet was filed for commission of offences which

are triable by the Magistrate. Taking into account the aforesaid facts, the court below enlarged the opposite party nos.2 to 8 on bail.

We have gone through the impugned order dated 7th March, 2018. The order is a speaking one and adverts to the materials collected in course of investigation including the injury report. We have also gone through the injury reports. Whether the injuries are grievous or life-threatening require to be assessed in the course of trial.

In view of the aforesaid circumstances, we are unable to accede to the prayer of the petitioner that the order granting bail to opposite party nos.2 to 8 suffers from any jurisdictional error or perversity necessitating interference. Opposite parties-accuseds are on bail for more than five years and there is no allegation of misuse of liberty.

Under such circumstances, we find no reason to cancel the bail granted to opposite party nos.2 to 8.

CRM 3755 of 2018 is accordingly, dismissed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)