

14.11.2022.
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as
(Allowed)

C.R.M. (DB) 2013 of 2022

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

In the matter of : Sujit Mondal.

.... Petitioner.

Mr. Arindam Jana,
Mr. Soumyajit Chatterjee,
Mr. Prithish Bandyopadhyay.

...for the Petitioner.

Mr. Tapandeb Nandy,
Mr. Antarikhya Basu.

...for the State.

Mr. Masum Ali Sardar.

...for the OP.No.2.

Order dated 09.06.22 passed by the learned Additional Chief Judicial Magistrate, Barrackpore, North 24-Paragans granting bail to opposite party No.2 is under challenge.

Learned Advocate for the petitioner-de facto complainant submits his client was forcibly abducted by him. At gun point he was initially asked to transfer Rs.1,30,000/- through Google Pay application to co-accuseds. As the maximum limit in the application was Rs.1 lakh, the said amount was transferred to the opposite party No.2 under coercion. On the next day, his wife went to the police station. Co-accused viz. Sanjoy Sarkar contacted his wife and asked him to come to Barasat. With the help of opposite party no.2, Rs.10.4 lakhs was transferred. Petitioner was also forced to sign on blank stamp papers.

Without considering the gravity of the aforesaid allegations and on the premise co-accuseds are on bail, learned Magistrate enlarged the opposite party no.2 on bail. On the very day he surrendered in Court. Bail of co-accuseds have been cancelled in CRM (DB) 1930 of 2022. Hence, his bail may be cancelled.

Learned Additional Public Prosecutor also supports the prayer for cancellation of bail.

We have considered the materials on record including the impugned order. Learned Magistrate noted there is no allegation against the opposite party no.2 under Section 364A IPC. He was brought in as a mobile expert. Co-accuseds were on bail. Hence, he was released on bail. On the very day he surrendered before the Magistrate.

We are unable to concur with the learned Magistrate with regard to the role of opposite party no.2. He was not a mere mobile expert. He colluded with the co-accuseds and helped them to transfer a large sum of money from the account of the petitioner who was abducted and detained. Bail of co-accuseds was procured on the strength of sham documents and has been cancelled in CRM (DB) 1930 of 2022. Involvement of the petitioner as an abettor in the crime is *prima facie* evident.

Gravity of the offence and materials collected in the course of investigation are important factors which require to be kept in mind while granting bail.

Hence, we are of the opinion order granting bail is perverse and is liable to be cancelled.

Order dated 09.06.2022 is set aside.

Opposite party no.2 is directed to surrender before the learned Magistrate positively within seven days failing which the investigating agency as well as the court below shall resort to appropriate process for his apprehension in accordance with law.

The application for cancellation of bail is, thus, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)