

25.1.2022
sl. 16, ct.42
sk.

C.R.M. 5740 of 2021

In the matter of: Shibtosh Roy @ Sibtossh Roy

Mr. Shibaji Kumar Das
....for the petitioner.

Mr. Amitabha Ghosh
Ms. Nabanita Chatterjee
....defacto complainant.

Mr. Prasun Kumar Dutta, Ld. A.P.P.
Ms. Debjani Sahu
...for the State.

This is an application for cancellation of bail filed by the defacto complainant/petitioner against the accused.

It is submitted by Mr. Das, learned Advocate for the petitioner that vide order dated 19th August, 2021 the learned Chief Judicial Magistrate, North 24-Parganas granted bail to the accused after he surrendered before the court without considering the case diary only on the basis of the fact that the learned A.P.P. attached to his court did not raise any objection against the prayer for bail.

It is further submitted by Mr.Das placing reliance on an order passed by Co-ordinate Bench of this Court in CRM 5093 of 2021 on 17th December, 2021 (in the matter of Ranadip Ghosh), the Hon'ble Co-ordinate Bench held that the learned Chief Judicial

Magistrate, Barrackpur did not follow the direction of the Hon'ble Supreme Court in the case of Satender Kumar Antil Vs. Central Bureau of Investigation & Anr. reported in 2021 SCC Online SC 922. The Co-ordinate Bench held that the offence complaint of his under category-'A'. Accordingly, it would be advisable that on the first occasion when the petitioner appears and surrenders before the learned Magistrate, if it satisfies the concerned learned Magistrate, interim bail may be granted and subsequently a date may be fixed for production of the case diary so that after consideration of the case diary, the learned Magistrate would decide whether to confirm the bail or reject the bail.

In the instant case the learned Magistrate granted interim bail to the accused vide order dated 19th August, 2021 till 2nd September, 2021 but subsequently no order was passed by him on consideration of the case diary either by allowing or rejecting the prayer for bail.

The learned Advocate for the accused/opposite party submits that when the learned Chief Judicial Magistrate granted interim bail, this court may direct the learned Chief Judicial Magistrate, Barasat to fix a date for confirmation of bail on consideration of case diary and pass necessary order in accordance with law.

Having heard the learned Counsels, the instance criminal motion is disposed of directing the Chief Judicial Magistrate to fix

the hearing of the petition for bail of the accused within three weeks from the date.

The learned Magistrate is further directed to consider the case diary at the time of hearing of the bail application and pass necessary orders in accordance with law keeping in view the ratio laid down in *Satender Kumar Antil*(supra) by the Hon'ble Supreme Court.

(*Bibek Chaudhuri J.*)