

28-09-2022
Subha
Item no.06
op

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction
Appellate Side

CRM (SB) 171 of 2022

Suman Chowdhury
-vs-
The State of West Bengal & Ors.

Mr. Pawan Kumar Gupta
Ms. Sofia Nesar
Mr. Santanu Sett

....for the petitioner.

Mr. Debasish Chattopadhyay
Mr. Tirthankar Basu

...for the O. P. Nos. 2 to 6.

Mr. Debabrata Chatterjee, APP,
Mr. Santanu Chatterjee

.....for the State.

Learned advocate for the petitioner as also the private opposite party nos. 2 to 6 are present. Learned advocate for the State is also present.

A report has been submitted by the Investigating Officer of the case which reflects that till date the streedhan articles have not been recovered. Let the report of the I/O, Gariahat PS dated 27-09-2022 be kept with the record.

Mr. Gupta, learned advocate appearing for the petitioner submits that the affidavit-in-opposition is enclosed with a document which has been relied upon and used, which is fake and forged and the content of which reflects that the streedhan articles are shown to have been received and the same has been affirmed. The said document has also been produced before this court being annexed along with the affidavit-in-opposition.

Mr. Gupta, learned advocate for the petitioner disputes the veracity of the document.

The present is an application for cancellation of bail. The order dated 10-06.2022 as such is of prime importance for consideration before this court. The learned C. J. M., Alipore allowed the interim bail of the opposite party nos. 2 to 6 refusing the prayer for police custody and on a day when the accused persons surrendered before the court.

The only consideration which weighed with the learned C. J. M., Alipore was the judgement of the Hon'ble Supreme Court in *Armesh Kumar -vs- State of Bihar & Anr.*, reported in (2014) 8 SCC 273. There is no reflection in the order dated 10.06.2022 regarding the subject matter of demand of dowry for which the allegations have been made under Section 498A Indian Penal Code or the recovery of the streedhan articles for which allegations were there under Section 406 of the Indian Penal Code. The said order also do not reflect that as to whether all the five persons are involved or not or each of them have a different locus in respect of the allegations made by the complainant. Order also do not reflect who are the accused persons in relation to the complainant.

Accordingly, the interim bail earlier granted is modified and restricted till 15th November, 2022. The accused persons, the complainant and the State being assisted by the Investigation Officer of the case along with case diary would be present on 10th November, 2022 before the learned C.J.M., Alipore. The learned CJM, Alipore would consider the materials already available, the prayer of the

Investigating Officer as also the complainant and the accused and thereafter would either confirm the bail or cancel the bail by exercising his discretion according to the materials appearing in the case diary.

The order of the learned CJM, Alipore would also reflect as to whether there is complicity of all the accused persons or not.

Needless to state that any observations made by this court was for the purposes of disposal of the present application for cancellation for bail, learned CJM, Alipore would independently consider the issue of bail without being influenced by any observations made by this court.

Accordingly, the application for cancellation of bail being CRM (SB) 171 of 2022 is disposed of.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

[Tirthankar Ghosh, J]

