

57
08.02.2022
(suvayan)
Court No.29
(rejected)

C.R.M. 7822 of 2021
(Via Video Conference)

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

And

In the matter of: Hema Sonkar

....petitioner.

Mr. Soumyajit Das Mahapatra

...for the petitioner.

Mr. Sourav Chatterjee

Mr. Amit Ranjan Pati

Mr. Sagnik Mukherjee

...for the opposite party no.2.

Mr. Neguive Ahmed

Ms. Ayantika Roy

...for the State.

Petitioner seeks cancellation of bail granted by the
jurisdictional Court.

Learned Advocate appearing for the petitioner draws the
attention of the Court to the contents of such order. He submits
that the learned Public Prosecutor submitted before the
jurisdictional Court that the charge-sheet was filed on October 18,
2021 and that the accused was in custody for a considerable
period. According to him, the learned Public Prosecutor exceeded
his brief in making such submissions before the jurisdictional
Court. He contends that there are criminal antecedents of the
private opposite party. There is another police case against the
private opposite party where the constitutional Court was required
to intervene.

Learned Advocate appearing for the petitioner draws the
attention of the Court to the statements recorded under Section

164 of the Criminal Procedure Code of two persons. He submits that both the 164 statements clearly implicates the private opposite party.

State and the private opposite party are represented.

In the facts of the present case, an order for bail in favour of the private opposite party was granted by the jurisdictional Court on October 27, 2021 after considering the submissions of the parties and after considering the period of detention of the private opposite party. In the order it appears that the learned Public Prosecutor submitted that the charge-sheet was filed on October 18, 2021 and that the accused was in custody for a considerable period.

There may or may not be a typographical errors in the order dated October 27, 2021 so far as the recording of the submissions made by the learned Public Prosecutor is concerned. However, the fact remains that the charge-sheet was filed on October 18, 2021 prior to the order granting the bail. In such context the period of detention was considered by the jurisdictional Court. We find no infirmity in the jurisdictional Court considering the period of detention of the private opposite party in the light of the date of filing of the charge-sheet. Moreover, we perused to the statement under Section 164 of the Criminal Procedure Code recorded by two persons. Prima facie, we do not find any material to overturn the order of granting bail by the jurisdictional Court on October 27, 2021 on the strength of the two statements recorded under Section 164 of the Criminal Procedure Code.

We deliberately refrain ourselves from discussing the

contents of the statements recorded under Section 164 of the Criminal Procedure Code, in view of the fact that our observations may prejudice the trial.

We, however, clarify that all observations made by us in this order are prima facie in nature, and made for the purpose of consideration of the application for cancellation of the bail and will not prejudice any of the parties at the trial.

Accordingly, the prayer for cancellation of bail of the petitioner is rejected.

C.R.M. 7822 of 2021 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

