

23-08-2022
Subha
Item no.103

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction
Appellate Side

CRM (SB) 199 of 2022

Soumen Kayal

-vs-

The State of West Bengal

In Re: An application for bail under Section 439 Cr.P.C in connection with Sonarpur P.S. Case No.694 of 2020 dated 02.09.2020 under sections 341/195A/506(ii) of the Indian Penal Code.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha
Mr. Ashutosh Mandal

...for the petitioner.

Mr. S. G. Mukherji, Id. PP,
Ms. Sayanti Santra

... for the State.

Mr. Shamik Bagchi

....for the de facto complainant.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that the petitioner is in custody for 72 days after his bail was cancelled by the learned Additional Chief Judicial Magistrate, Bauripur.

Record reflects that there are two cases against the petitioner, the instant one as well as the Sonarpur P. S. Case No. 114 of 2019 dated 29.01.2019 which is a case under Section 302 of the Indian Penal Code amongst other Sections wherein the chargesheet has already been filed. The petitioner is on bail so far as the said case is concerned.

Yesterday when the application for bail was taken up, learned advocate for the petitioner submitted that he has no information whether an application for cancellation for bail is pending in respect of

Sonarpur P. S. Case No. 114 of 2009, however, it was pointed out by the learned advocate appearing for the de facto complainant that such an application is pending. Consequently, the learned Public Prosecutor, High Court, Calcutta was directed to take information from the Investigating Officer as well as the Inspector-in-Charge of the concerned Police Station to furnish details.

Mr. Mukherji, learned Public Prosecutor submitted the details that a cancellation of bail application is pending in respect of Sonarpur P. S. Case No. 114 of 2019 dated 29.01.2019 before the learned Fast Track Court at Baruipur.

It has been submitted by the State that application for cancellation of bail has been served upon the State and it is fixed on 21st September, 2022.

The present case is an off suit of the said case as the subject matter relates to tampering of witnesses in connection with Sonarpur P. S. Case No. 114 of 2019 dated 29.01.2019.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that the petitioner was released on bail earlier by the learned Additional Chief Judicial Magistrate, Baruipur but subsequently, it was brought to the notice of the court by the de facto complainant that the application for bail in connection with the instant case being Sonarpur P. S. Case No. 694 of 2020 was rejected by the High Court in CRM 7940 of 2020. The said information being furnished before the learned Magistrate, the learned Magistrate subsequently was pleased to recall his earlier order and cancel the bail and since then the petitioner is in custody. Learned advocate submits

that during the period of about one and half years when the petitioner was released, he has never misused his liberty and there are no allegations in respect of the same, which has been furnished by the Investigating Officer.

Be that as it may, since the cancellation of application for bail in the case under Section 302 of the Indian Penal Code is pending before the learned Fast Track Court, Baruipur and is fixed on 21st September, 2022, I direct that the present bail application being CRM (SB) 199 of 2022 be considered by the same court. One after another, the learned court on the same date would dispose of both the applications i.e., the cancellation of bail in connection with Sonarpur P. S. Case No. 114 of 2019 dated 29.01.2019 as also the bail application in connection with Sonarpur P. S. case no. 694 of 2020 dated 02.09.2020.

This Court has not gone into the merits of the case so far as the application for bail is concerned, but for judicial propriety has left to the discretion of the learned Sessions Court for considering independently regarding the application of bail of the petitioner.

Learned advocate appearing for the de facto complainant is directed to hand over a copy of the application for cancellation of bail upon Mr. Chakraborty, learned advocate for the petitioner within 72 hrs.

Mr. Chakraborty, learned advocate for the petitioner would transmit such application to the learned advocate who would be representing the petitioner before the learned Fast Track Court, Bauripur. The learned Fast Track Court, Baruipur would take steps so

that the hearing of both the applications are disposed of on 21st September, 2022.

Department is directed to send the records of CRM (SB) 199 of 2022 by retaining a Photostat copy of the same for the purpose of the records of the High Court, to the Office of the learned Fast Track Court, Baruipur within a period of seven days from date.

The Office of the learned Fast Track Court, Baruipur would be at liberty to renumber the application for bail and fix the same for hearing on 21st September, 2022.

With the aforesaid observations, the application for bail, being CRM (SB) 199 of 2022 is disposed of.

Pending applications, if any, are consequently disposed of.

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

Urgent Photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

[Tirthankar Ghosh, J]

