

D/L4
23.09.2022
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C.R.M. (SB) 201 of 2022

In Re: An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure, 1973;

Ronik Basak
Versus
The State of West Bengal and others

Mr. Sekhar Basu,
Mr. Antarikhya Basu,
Mr. Diptangshu Basu.

...for the petitioner.

Mr. Arindam Jana.

...for the opposite party nos.2 and 3.

Mr. Sanjoy Bardhan,
Mr. Baishaki Chatterjee.

...for the State.

The order dated 06.07.2022 is a subject matter of challenge in the present application for cancellation of bail.

By order dated 19.09.2022, a report was directed to be submitted by the Investigating Officer of the case wherein this Court asked the Investigating Officer to clarify two issues; firstly, whether the case diary was produced when the application for bail was moved and, secondly, whether further custodial detention of the opposite party nos.2 and 3 are required in connection with the instant case.

A report has been received from the Investigating Officer of the case which reflects that the case diary was not produced before the learned ACJM, Barrackpore on 06.07.2022 and it has also been stated that custodial detention shall improve the

investigation of the case. Let the report be kept with the record.

So far as the order dated 06.07.2022 is concerned, what weighed with the learned Magistrate is the no-objection raised by the learned APP as also the facts that the case is magistrate triable and the accused persons have surrendered voluntarily. From the face of the order, it is transparent that the materials collected by the Investigating Agency in course of the investigation were never placed for consideration before the learned Magistrate.

The learned Magistrate granted ad interim bail for more than three months. These three months are enough for spoiling the investigation. In case of such circumstances, ordinarily the learned Magistrate the ad interim bail should not extend beyond seven to ten days.

As the merits of the case were never considered by the learned Magistrate, I modify the earlier order of bail and restrict the same till 30th September, 2022. On 28th September, 2022, the present petitioner, the opposite party nos.2 and 3/accused persons and the State would be represented through the APP being assisted by the Investigating Officer of the case along with the case diary.

Learned ACJM, Barrackpore is directed to reconsider the prayer for bail of the opposite party nos.2 and 3 on the basis of the materials appearing in the case diary.

Needless to state, this Court has never directed the learned Magistrate either to grant bail or refuse the bail. Learned Magistrate would independently consider the same after taking into account the materials appearing in the case diary.

Accordingly, CRM (SB) 201 of 2022 is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)