

04-11-2022
Subha
Item no.08
op

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction
Appellate Side

CRM (SB) 211 of 2022

Shova Khatun
-vs-
The State of West Bengal & Anr.

Md. Wasim Akram
Mr. Syed Murshid Alam
Mr. Subrata Ghosh
Mr. S. Mukherjee

...for the petitioner.

Mr. Rudraskha Chattopadhyaya,

... for the Opposite party no.2.

Mr. Arijit Ganguly
Mr. Sanjib Kumar Dan

....for the State.

Affidavit of service filed by the petitioner be kept with the record.

Learned advocate for the petitioner as well the learned advocate for the opposite party no.2 is present.

Mr. Ganguly, learned advocate appears on behalf of the State.

Learned advocate for the petitioner has drawn the attention of this court to the order dated 31-05-2022 wherein the learned Judicial Magistrate, 4th Court, Krishnagar, Nadia was pleased to issue process for offence under Section 506 of the Indian Penal Code and under Section 4 of the Muslim Women(Protection of Right of Marriage Act), 2019.

Learned advocate for the petitioner thereafter drew the attention of this court to the order dated 2nd August, 2022 wherein it is

reflected that the accused appeared before the court, filed a petition for bail and the learned court was pleased to release the petitioner on bail.

Learned advocate for the petitioner prays for cancellation of bail on the ground that Section 7(3) of the Act states that no person should be granted bail in respect of an offence punishable under the Act, unless the learned Magistrate affords opportunity to the married Muslim women against whom talak has been pronounced by the accused.

I find substantial force in the submission of the learned advocate for the petitioner in view of the statutory compulsions. The order dated 2nd August, 2022 do not reflect that the learned Magistrate heard the complainant lady against whom talak was pronounced by the accused prior to releasing him on bail.

Accordingly, the order dated granting bail is modified to the extent that the bail so granted on 2nd August, 2022 would be valid till 30th November, 2022.

The applicant/complainant would file an application ventilating her grievance before the learned Judicial Magistrate, 4th Court, Krishnagar by 20th November, 2022.

Learned Magistrate would issue a notice upon the accused/opposite party no. 2 and dispose of the applications of the applicant/complainant by adhering to the provisions of Section 7 of the Muslim Women(Protection of Right of Marriage Act), 2019.

With the aforesaid observations, the application for cancellation of bail being CRM (SB) 211 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.

[Tirthankar Ghosh, J]