

11-11-2022
Subha
Item no.06
op

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction
Appellate Side

CRM (SB) 225 of 2022

Tama Mondal
-vs-
The State of West Bengal & Ors.

Mr. Kunal Ganguly
Mr. Tirupati Mukherjee
...for the petitioner.

Mr. Manas Kumar Das
Mr. Debabrata Sen
... for the accused nos. 2 & 3.
Mr. Sayan De
Mr. Sayan Kanjilal
....for the accused nos. 3 & 4.

Mr. Arijit Ganguly
Mr. Sanjib Kumar Dan
....for the State.

I have perused the order dated 24th August, 2022 passed by the learned Chief Judicial Magistrate, Howrah. The said order do not reflect that case diary was produced before the court when the application for bail of the accused persons was considered.

Another disturbing feature in this case is that without perusal of the case diary even learned Additional Public Prosecutor has raised no objection.

The learned Chief Judicial Magistrate, Howrah has granted an interim bail for about six months. Having regard to the nature of the offence, I restrained myself from canceling the bail. However, I direct that henceforth if an accused surrenders before the court in a case where investigation is in progress, the learned Chief Judicial

Magistrate would, if required, grant interim bail for 7-10 days and fix a date for production of the case diary. The learned court after perusal of the case diary would take a decision whether the bail should be confirmed or the interim bail should be rejected. An interim bail for about six months is almost in the nature of a permanent bail which takes away the right of the Investigating Agency in a case where the accused may be required for custodial interrogation. Some responsible behaviour is expected from the Ld. APP who appears on behalf of the State. In case the Public Prosecutor raises no objection in a bail the same should be upon instruction from the Investigating Officer or a responsible office of the State.

In the alternative, it is the duty of the ld. APP to point out before the C. J. M that an interim bail cannot be granted for six months. There was gross dereliction of duty on the part of the ld. APP either way. A State does not engage an advocate to endorse the view of the defence counsel. As the offence complained of arise out of a matrimonial discord, I modify the order of interim bail earlier granted by the ld. CJM, Howrah on 24.08.2022 to the extent that the interim bail will continue till 15th December, 2022. The accused persons would appear before the ld. C.J.M, Howrah on 5th December, 2022, State would produce the case diary on the said date. The de facto complainant through the learned APP would keep his version before the court.

Needless to state that this court has not expressed any opinion on the merits of the case but has criticized the mode and manner in which the bail was granted which to its dissatisfaction. The said

observations will not deter the ld. Chief Judicial Howrah to grant bail to the accused persons in case he finds that the materials in the case diary do not warrant detention of the accused persons in custody.

With the aforesaid observations, the application for cancellation of bail being CRM (SB) 225 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]