

CRR 3905 of 2022
Rupchand Biswas
Vs.
The State of West Bengal

In Re : An application under Section 401 read with Section 482 of
the Code of Criminal Procedure, 1973.

Mr. Sudip Ghosh Chowdhury,
Mr. Arghya Das,
Mr. Avijit Majumder
...for the Petitioner

Mr. Rudradipta Nandy,
Mr. Pratick Bose
...for the State

The revisional application has been preferred praying for quashing of the proceeding in N.G.R. (Ex) 135/2022 under Section 110 of the Code of Criminal Procedure pending before the learned Special Executive Magistrate, Chandannagore Division, Chandannagore Police Commissionerate by the order dated 15.09.2022. The learned Special Executive Magistrate passed an order directing the opposite party to submit a show-cause as to why he should not be ordered to submit good behavoiur bond of Rs. 25,000/- each with four sureties such as (1) one Bank employee from nationalized bank, (2) one Government employee, (3) one respected person, (4) School Teacher from the locality for a period of three years for the satisfaction of the Court as per proviso of Section 111 Cr.P.C. The order is interlocutory in nature.

The reason given by the learned Special Executive Magistrate is that the opposite party is rowdy and dangerous in nature and in a

habit of committing serious offences. The learned Magistrate has also noted the six specific police cases pending against him. All the six cases are pending trial.

The learned lawyer appearing for the petitioner has relied upon a decision of the Co-ordinate Bench of this Court dated 01.08.2022 passed in CRR 3465/2019 (Rajesh Prasad Tanti –Vs.- State of West Bengal) drawing the attention of this Court to page 16 of the said judgment wherein the Court has laid down the guidelines for an Executive Magistrate to follow while exercising their jurisdiction under Section 111 of the Code of Criminal Procedure.

It is seen that the conditions for furnishing the bond and the nature of the sureties in this case is against the said guidelines laid down by the Court. The nature of sureties has been laid down in such a manner that it will not be possible for the petitioner to avail of the said liberty.

The submission of the learned lawyer appearing for the State is taken into consideration that the petitioner is a habitual offender and commits serious offences.

Considering the fact that there are specific cases in which the petitioner is an accused and the proceedings in those cases are continuing, it can only be presumed that the intention of the learned Special Executive Magistrate was to ensure that the petitioner should not be set at liberty. In other specific criminal cases pending against the petitioner, the petitioner in due course has to appear before the concerned Courts and appear during trial, in default, the said Courts are at liberty to proceed in accordance with law. The condition of

sureties as laid down by the learned Special Executive Magistrate is clearly in violation of principles of natural justice.

Learned lawyer appearing on behalf of the State has brought to the notice of this Court, another judgment passed by this Court on 17.05. 2022 in CRR 1609/2022 and has submitted that an order in those lines can be considered by this Court.

Considering the nature of offence alleged, as seen from those specific cases as noted by the learned Executive Magistrate in his order-sheet, the submissions of the learned advocates of both sides and on perusal of the material on record and the offences as above, the order dated 15.09.2022 passed by the learned Special Executive Magistrate, Chandannagore Division, Chandannagore Police Commissionerate in N.G.R. 135/2022 is hereby modified to the following extent.

The petitioner shall be produced before the learned Special Executive Magistrate by 21.10.2022 and he shall submit a good behaviour bond of Rs. 20,000/- with two sureties, one of whom must be local for a period not exceeding three years.

The revisional application being CRR 3905 of 2022 is disposed of.

Urgent certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

Parties are to act on a server copy of this order duly downloaded from the official website of this Court.

(Shampa Dutt (Paul), J.)