

16-12-2022
Subha
Item no. 26
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction

CRM (SB) 263 of 2022

Subrata Adhikary
-versus-
The State of West Bengal & Anr.

Re : An application under Section 439(2) of the Code of Criminal Procedure.

Mr. Soumyajit Das Mahapatra,
Ms. Rupsa Sreemani
Ms. Ankita Giri
....for the petitioner.

Mr. Subhajit Choudhury
.....for the opposite party no. 2.

Mr. Arijit Ganguly
Mr. Avik Ghatak
....for the State.

Affidavit of service filed so filed be kept with the record.

The present application for cancellation of bail has been preferred against an order dated 12th October, 2022 in connection with Jagaddal P. S. Case No. 573 of 2022 dated 8th September, 2022 under Sections 420/408 of the Indian Penal Code.

Mr. Das Mahapatra, learned advocate appearing for the complainant/petitioner submits that the Investigating Officer on 12th October, 2022 while submitting his forwarding report which was after three days of police custody granted by the learned Additional Chief Judicial Magistrate, Barrackpore was to the effect that the account was traced and it could be ascertained that the accused has taken an amount of Rs.20 lakhs in his savings account in stead of the current

account of the complainant on the plea of certain technical issues in the complainant's account. After narrating the whole of the allegations and recording of the statement of some of the customers of the complainant, a prayer was made opposing the bail of the accused/opposite party.

Mr. Arijit Ganguly, learned advocate appearing for the State after perusal of the case diary has submitted that the police authorities has frozen the account of the accused and also recorded from the relevant witnesses the complicity of the accused.

Mr. Chowdhury, learned advocate appearing for the accused/opposite party submits that after the accused was granted bail, he had been complying with the conditions. There has been no allegation that the accused has violated or misused the liberty of the conditions of bail granted to him.

I have perused the submissions advanced by the learned advocates appearing for the parties.

Mr. Das Mahapatra's main grievance is that as to why the learned Magistrate has granted bail to the accused only after three days when there was every possibility of further recovery. It has also been emphasized that the observation of the learned Magistrate that there has been no development during the period of police custody itself goes to show the conduct of the Investigating Agency.

I have also considered the conditions so imposed by the learned Magistrate upon the accused to meet the Investigating Officer thrice a week.

Having regard to the nature of the allegations, the manner in

which the Investigating Agency proceeded and collected the materials and that the accused initially was taken into police custody for three days and the reasons so assigned by the learned Additional Chief Judicial Magistrate, Barrackpore, do not call for any interference in the order dated 12th October, 2022 granting bail to the accused/opposite party.

It has been informed to this court that the investigating of the case is in progress.

In case, in course of investigation if there is any non-cooperation from the side of the accused for smooth progress of the investigation by the Investigating Authorities for eliciting the materials connected with the case, I direct that the Investigating Officer of the case would take out an appropriate application before the learned Additional Chief Judicial Magistrate, Barrackpore. The learned A.C.J.M, Barrackpore would be entitled to cancel the bail without further reference to this court.

With the aforesaid observations, the present application being CRM(SB) 263 of 2022 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

[Tirthankar Ghosh, J]

