

24-03-2023
Subha
Item no. 10
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction
Appellate Side

CRM (SB) 22 of 2023

In the matter of : An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure.

Dr. Debranjana Mondal
-Versus-
The State of West Bengal & Anr.

Mr. Sanjoy Banerjee
Mr. Joydeep Bhattacharyya
...for the petitioner.

Mr. Angshuman Chakraborty
.....for the opposite party no. 3.

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

In this application for cancellation for bail, Mr. Banerjee, learned advocate for the petitioner has challenged the order dated 10.12.2022 passed by the learned Additional Chief Judicial Magistrate, Barasat in connection with Madhyamgram P. S. Case No. 505 of 2022 dated 15.10.2022 under Sections 420/406 of the Indian Penal Code.

I have perused the contents of the said order. The learned Magistrate while passing the said order prima facie was of the opinion that since there has been no progress while the accused was in police custody and the fact that an impression was created by the learned advocate for the accused that balance amount would be returned granted bail to the opposite party no.2.

Mr. Ganguly, learned advocate appearing for the State has produced the case diary and referred to bank statements and the petitioner has also admitted that a sum

of Rs.5 lakh have been reverted back to the complainant.

However, the main contention of the petitioner is that the subject matter of deceiving relates to Rs.22 lakh and by way of returning Rs. 5 lakh, the accused opposite party no. 2 along with his associates have been able to dilute the rest of sum of Rs.17 lakh.

Mr. Chakraborty, learned advocate appearing on behalf of the opposite party no. 2 submits that the accused on his own tried his level best and having failed to attain the purpose for which he took money returned whole of the amount to the complainant.

At this stage, the facts are disputed whether the accused had taken a sum of Rs.5 lakh or a sum of Rs.22 lakh. The investigation of the case is in progress. The Investigating Authorities in their report has submitted that they are trying their best to unearth the truth. The witnesses are being examined, documents have been collected. The Investigating Authorities are also addressing on the issue of Mr. Banerjee's submission regarding Rs.17 lakh of money being withdrawn from the account and handed over to the accused persons. The Investigating Agency, as such, would consider the aspect of the source of the money by which the complainant within a close proximity of time has withdrawn such money.

The Investigating Agency on the basis of such materials would consider regarding the fact whether such sum as alleged do relate to the accused person being handed over for the purpose which the case has been initiated.

So far as this aspect is concerned, the stage of the case do not command that the bail order so granted should be interfered with. The Investigating Agency would continue with their investigation and as directed in CRM (SB) 21 of 2023 collect materials for arriving at their logical conclusion within a reasonable period of time.

With the aforesaid observations, the application for cancellation of bail under

Section 439(2) of the Cr.P.C being CRM (SB) 22 of 2023 is 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]