

17.03.2023

Item No.27

Ct.No.34

dc.

C.R.M. (SB) 31 of 2023

In Re : An Application for cancellation of bail under Section 439 (2) of the Code of Criminal Procedure, 1973.

And

In Re : **Swati Gambhir**

... Petitioner.

Md. Zohaib Rauf,
Mr. Ajitesh Pandey ... For the Petitioner.

Mr. S. S. Imam,
Mr. S. Kundu ... For the State.

Mr. Francis Samson Correa,
Ms. Sneha Singh,
Mr. Bikash Kumar Roy ... For the Opposite Party Nos. 2 to 7.

Records reflect that the petitioner is aggrieved by the orders of bail being passed in connection with Park Street Police Station Case No. 197 dated 02.11.2020.

I find that in connection with the said case, charge-sheet was submitted on or about 11.02.2021. The grounds which have been assigned in the application for cancellation of bail were never in respect of the merits of the case so far as the orders which have been challenged. The orders are of 2020 and the application for cancellation of bail was affirmed on February 2023. Having considered the time period in the meantime which has elapsed, I am of the opinion that until and unless the merits regarding the cancellation are first considered by the learned Magistrate, this Court as a higher forum will not appreciate any original application.

The petitioner would be at liberty to canvass the points before the learned Magistrate. The learned Magistrate would, if such an application is filed, issue notice to the respective parties and thereafter decide on the merits of such application.

With the aforesaid observations, CRM (SB) 31 of 2023, is, thus, disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)