

Item No.28
Ct.No.34
dc.

C.R.M. (SB) 88 of 2023

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

And

In Re : **Sri Sujit Nag** ... Petitioner.

Mr. Tapan Dutta Gupta,
Mr. Saurabh Guha Thakurata,
Ms. Nilanjana Sarkar ... For the Petitioner.

Mr. Madhusudan Sur,
Mr. Dipankar Paramanick ... For the State.

Mr. Shibaji Kumar Das ... For the Opposite Party Nos. 2 and 3.

Learned advocate appearing for the petitioner prays for cancellation of the order of bail passed by learned Additional Chief Judicial Magistrate, Kalyani, Nadia on 28.09.2022. Learned advocate points out that the present opposite party nos. 2 and 3 on surrender were allowed to be released on interim bail as the learned APP did not raise any objection and on the simple plea that they have complied with the notice under Section 41A of the Code of Criminal Procedure. According to the learned advocate, the learned court while releasing the accused persons on bail did not have the occasion to peruse even the case diary as to what materials were appearing against them.

Mr. Sur, learned advocate appearing for the State produces the case diary and supports the contention of the applicant for cancellation of bail.

Mr. Das, learned advocate appearing for the opposite party nos. 2 and 3 submits that the opposite party nos. 2 and 3 complied with the notice under Section 41A of the Code of Criminal Procedure and at least on 2/3 occasions, the same were produced before the learned Magistrate and in view of the judgement of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation & Anr.*** reported in ***(2022) 10 SCC 51*** was pleased to release the accused persons on bail.

I have perused the case diary and I find that during the pendency of the present application for cancellation of bail, charge-sheet has been submitted before the jurisdictional court with a prayer for discharge in respect of two accused persons viz. Sangita Biswas and Sribani Biswas. Submissions have been made on behalf of the petitioner that an application under Section 173(8) of the Code of Criminal Procedure was preferred before the learned Additional Chief Judicial Magistrate, Kalyani in view of such discharge and the same has been allowed. Taking into account the time period which has elapsed in the meantime and the totality of the circumstances particularly, with regard to the fact that the present opposite party nos. 2 and 3 have been implicated as an accused, I am of the opinion that at this stage, there is no reason to interfere with the order of bail granted on 28.09.2022.

In course of further investigation, if the investigating agency is able to unearth materials which would be warranting custodial interrogation of the present accused

persons, the investigating authority would be at liberty to take out such application and on such an application being preferred, the learned Additional Chief Judicial Magistrate, Kalyani, Nadia would dispose of the same taking into account the complicity, the subsequent changes and the requirement for the petitioner's order of bail being interfered with.

With the aforesaid observations, the application being CRM (SB) 88 of 2023 is disposed of.

Pending connected application, if any, is consequently 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.)