

20.02.2023
Ct.No.28
50/tkm

C.R.M. (DB) 995 of 2022

In Re : An application for cancellation of bail under section 439(2)
of the Code of Criminal Procedure read with section 482 of the
Code of Criminal Procedure
and

In Re : Anwara Khatoon Petitioner.

Mr. D Haque
Md. Z Rauf
Mr. Abdul Zahid

... for the petitioner

Ms. Anasyua Sinha
Mr. Pinak Kr. Mitra

...for the State

Mr. Ayan Bhattacharya
Mrs. S Afrin
Ms. R Jahan

...for the O.P no. 2

Order dated 6.4.2022 passed by the learned CJM,
Alipore, South 24 Parganas granting bail to opposite party no.
2 has been assailed.

It is contended that opposite party no. 2 and his
associates had demanded money from the petitioner. When
he resisted, he was brutally assaulted. Miscreants were also
carrying fire arms. As a result, petitioner suffered head injury
and was admitted to hospital from 22nd March till 30th March
2022. They had intended to murder the petitioner. Without
considering the fact that offence under section 307 of the IPC
is punishable with life imprisonment, learned Magistrate
illegally enlarged the opposite party no. 2 on bail. Opposite

party no. 2 is a dangerous person and witnesses are terrorized. Petitioner prays for cancellation of bail.

Learned lawyer for opposite party no. 2 opposes the prayer for cancellation of bail. It is submitted allegations are out and out false. Opposite party no. 2 had co-operated with investigation. There is no allegation of misuse of liberty. Nature of injuries suffered by the petitioner does not disclose ingredients of offence punishable under section 307 IPC.

Learned lawyer for the State produces the case diary.

We have considered materials on record. We have also examined the allegations in the FIR. It is alleged opposite party no. 2 demanded money from the petitioner. When he refused to pay, he was assaulted. He suffered injuries on his head and was hospitalized. We have gone through the medical papers. Though petitioner was hospitalized for about a week, injuries noted in the medical papers do not show any fracture or internal injuries. Whether the ingredients of offence punishable under section 307 IPC are disclosed in light of the aforesaid facts may be assessed during trial. Hence, we are not inclined to cancel the bail of opposite party no. 2.

However keeping in mind the nature of offence, we are of the opinion movement of opposite party no. 2 requires to be restricted in order to prevent commission of similar offences in future.

Opposite party no. 2 while on bail, shall not enter the jurisdiction of Karaya P.S until further orders and shall provide address where he shall presently reside to the investigating officer as well as to the court below and shall report to the officer in charge of the P.S concerned within whose jurisdiction he shall presently reside once in a week until further orders. He shall not tamper evidence and intimidate witnesses in any manner whatsoever.

With the above directions, CRM (DB) 995 of 2022 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)