

Item No.46
Ct.No.34
dc.

C.R.M. (SB) 57 of 2023

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

And

In Re : **Bimal Mukherjee** ... Petitioner.

Mr. Saheb Banerjee ... For the Petitioner.

Mr. Arijit Ganguly,
Mr. Avik Ghatak ... For the State.

Mr. Joydeep Bhattacharya,
Mr. Aritradeb Mondal ... For the Opposite Party No.2.

The present application for cancellation of bail was preferred against the order dated 16.01.2023 passed by learned Chief Judicial Magistrate, Purba Bardhaman in connection with Memari Police Station Case No. 507 of 2022 dated 17.08.2022 under Sections 420/406 of the Indian Penal Code. The case was subsequently transferred to C.I.D. on 17.04.2023.

I have also checked the certified copy of the order dated 16.01.2023 wherefrom it reflects that the opposite party no.2 surrendered before the court and was granted interim bail with no objection from the learned APP appearing in the said court. The said interim bail was granted on the foundation of only Section 41A of the Code of Criminal Procedure being complied with. The learned Chief Judicial Magistrate, Purba Bardhaman was pleased to fix the interim bail after a period of four months on or about 05.05.2023.

There has been progress in the investigation pursuant to the CID taking charge of the investigation. The process of collection of evidence is in progress. Records also reflect that the opposite party no.2 was not diligent at the stage when the date of his interim bail was to expire. As such, the learned Chief Judicial Magistrate, Purba Bardhaman had to issue notice to the surety. Having considered the merits of the case and the fact that the case diary was not considered by the learned Chief Judicial Magistrate, Purba Bardhaman when the interim bail was granted to the opposite party no.2 and the investigation at this stage is in full swing, I am of the view that custody of the present opposite party no.2 viz. Chanchal Goswami is required by the investigating agency. Accordingly, the order granting interim bail on 16.01.2023 or any extension of the interim bail in connection with the said order passed by the learned Chief Judicial Magistrate, Purba Bardhaman is hereby set aside.

The opposite party no.2 has taken huge amount of money by not only deceiving, but by mode of extortion. As such, the present investigating agency would be at liberty to pray for police custody, in case they feel the requirement of the opposite party no.2 herein. An application to this extent may be made to the learned Chief Judicial Magistrate, Purba Bardhaman.

The opposite party no.2 viz. Chanchal Goswami would surrender within 72 hours before the learned Chief Judicial Magistrate, Purba Bardhaman.

Accordingly, the application being CRM (SB) 57 of 2023 is allowed.

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.)