

28-04-2023
Subha
Item no. 10
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction
Appellate Side

CRA (SB) 47 of 2023

*In the matter of : A petition of appeal under Section 14A of the SC and ST
(Prevention of Atrocities), Act, 1989.*

**Chapa Oraon
-Versus-
Jayeeta Mukherjee & Anr.**

Mr. Ayan Bhattacharya
Mr. Shounak Mondal
Mr. Suman Majumder

...for the petitioner/appellant.

Mr. Anupam Kumar Bhattacharya
Mr. Rameshwar Sinha

.....for the opposite party no. 1.

Mr. Arijit Ganguly
Mr. Avik Ghatak
Ms. Anasuya Sinha

...for the State.

Mr. Ganguly, learned advocate appearing for the State has produced the case diary and drawn the attention of this court to the statement of the victim under Section 164 of the Code of Criminal Procedure. It has also been submitted that charge has been framed in connection with the instant case.

Mr. Bhattacharyya, learned advocate for the appellant submits that the order under challenge is a mechanical order and the learned trial court should take into consideration the merits of the contents while deciding an application for bail.

Additionally, it has been submitted that the rider in the earlier order was emphasized by the learned special court while passing the impugned order and the purpose for which the legislature thought it fit and proper for enacting such a provision was not taken into consideration by the learned trial court while deciding an application for bail. In fact, according to the appellant, the rigors attached to the

provisions of the act were ignored by learned special court and the learned special court passed the order of bail as is ordinarily done in cases under the provisions of the Indian Penal Code.

Learned advocate appearing on behalf of the accused opposite party resists such submission and states that the accused opposite party pursuant to the order passed by this court surrendered before the special court and the special court on consideration of all the factors released the petitioner on bail which was reconsideration in respect of the earlier order so passed.

I have considered the order passed by the learned special court and I find that the learned special court categorically observed that though the learned Special Public Prosecutor raised objection in granting bail to the accused, but the learned counsel for the de facto complainant submitted that he has formal objection and the court may pass appropriate order. In spite of the same, the learned trial court observed that the Hon'ble High Court was pleased to interfere as the de facto complainant did not get an opportunity while application for bail was considered on an earlier occasion. The learned special court thereafter observed that the de facto complainant has been represented and the accused who was already on bail appeared/surrendered voluntarily and as the detention of the accused would not serve any useful purpose she may be released on bail.

I have considered the reasons assigned by the learned special court and I am of the view that some space must be granted to the learned special court for exercising its discretion.

The totality of the circumstances reflects that the chargesheet has been submitted, charge has been framed there are facts on the basis of which case was registered, investigated and steps taken for commencement of the trial, but another consideration which must be taken into account is whether this is a case of custodial trial.

Having regard to the issues which the prosecution are called upon to prove in this case, I am of the opinion that the conduct of the accused/respondent do not call for interference with the liberty already granted to her by the learned special court. As such, the order dated 11th January, 2023 is not interfered with.

Learned advocate for the appellant prays for expeditious disposal of the case in view of two of the witnesses having already expired. As prayed for, and as is reflected from the case diary so produced the instant case was registered in the year 2016 and almost six and half years have passed since the commencement of the case with the Investigating Authorities. The de facto complainant obviously has anxiety to see the outcome of such case. Considering the same, the learned special court/trial court is directed to prepone the date, fix a schedule in the month of July, 2023 and thereafter fix a schedule of dates regarding the examination of the witnesses once in a month till further orders of this court.

With the aforesaid observations, the application for cancellation of bail being CRA(SB) 47 of 2023 is disposed of.

Learned advocate for the de facto complainant as well as the accused is directed to be present before the special court on 7th June, 2023 along with the order. The learned Public Prosecutor/Special Public Prosecutor conducting this case would also be present. A schedule of dates be fixed in the month of July, 2023. Accordingly, summons/notice be issued to the witnesses to be present on the said dates for their examination.

Pending applications, if any, are consequently 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]

