

05.09.2023
Ct.No.28
43-44
tkm

C.R.M. (DB) 1024 of 2022
with
C.R.M. (DB) 1028 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 : Shipra Ghosh Petitioner.

Mr. Sanjay Banerjee
Ms. S Majumder

... for the petitioner

Mr. Kallol Mondal
Mr. Subir Debnath
Mr. Krishan Ray
Ms. Roma Roy

...for the O.P. no. 1

Mr. R D Nandy
Ms. Sonali Das

...for the State

1. Petitioner has assailed order granting bail to opposite party no. 2-accused. He contends opposite party no. 2-accused has dishonestly utilized a forged power of attorney purportedly executed in 2015 for wrongful gain. Original power of attorney has not been seized and custodial interrogation to recover the forged document is necessary.
2. Learned lawyer for the State submits inspite of assurance given by opposite party no. 2- accused, the power of attorney dated 2015 has not been handed over.
3. Learned lawyer for opposite party no. 2- accused submits the 2015 power of attorney is not in his possession.

His client merely possesses a photo copy and is unaware of the existence of the original. On the other hand, he argued a registered power of attorney was executed by the petitioner in 2019 which are similar lines. Under such circumstances allegation that his client used the forged power is patently absurd. Hence, bail may not be cancelled.

4. In rebuttal learned lawyer for the petitioner contends the 2019 instrument has not been acted upon and was issued only by a co-owner.

5. We have considered the materials on record. Allegations in the case involve preparation and use of a forged power of attorney. While petitioner would contend the forged power of attorney is created in 2015 and is in the custody of opposite party no.2- accused, the latter states the document was fraudulently generated by the petitioner herself and he does not possess the original. On the other hand, a registered power of attorney was issued by the petitioner in his favour in 2019.

6. We have compared the terms of the 2019 power of attorney with the copy of the attorney purportedly issued in 2015. The terms are more or less on similar lines. If opposite party no. 2- accused was already favoured with a registered instrument which empowers him to negotiate with intending purchaser in respect of the self-same property, it is improbable he would prepare and use a forged instrument for the self-same purpose.

7. We are not concerned whether 2019 instrument is executed only by a co-owner or its legal impact which may be decided in the civil forum.

8. Under such circumstances, we are of the opinion custodial interrogation of the petitioner for progress of investigation is not necessary.

9. Prayer for cancellation of bail is dismissed.

10. Petitioner shall co-operate with investigation and meet the investigating officer once in a week until further orders.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)