

06.03.2025
Item No.48 with 49
Court No. 26
CHC

CRM (DB) 2959 of 2024

In re : An Application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure, 1973 corresponding to Section 483(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Bagdah Police Station Case No.122 of 2023 dated February 22, 2023 under Sections 376(3)/506 of the Indian Penal Code, 1860 read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

-And-

In the matter of : XXX victim girl

... ... Petitioner

With

**CRM (DB) 1665 of 2023
CRAN/1/2024**

In re : An Application for relaxation of condition of bail.

-And-

In the matter of : Animesh Bain

... ... Petitioner

Mr. Sanjib Kr. Mukhopadhyay, Advocate

Mr. T. K. Biswas, Advocate

Ms. Nargish Parveen, Advocate

... ... For the Petitioner in CRM(DB) 2959 of 2024

Md. G. N. Imrohi, Advocate

... ...For the petitioner in CRM(DB) 1665 of 2023

Md. G. N. Imrohi, Advocate

... ...For the o.p. No.2 in CRM(DB) 2959 of 2024

Mr. Subham Bhakat, Advocate

... ...For the State

1. Two applications are taken up for consideration analogously as they relates to the same police case.

2. CRM(DB) 2959 of 2024 is an application for cancellation of bail granted by the coordinate Bench to the private opposite party.
3. Learned advocate appearing for the petitioner submits that, post bail misconduct of the private opposite party stands established. Subsequent criminal case was lodged which also involves the POCSO Act. Private opposite party is threatening the victim and the family of the victim. Immediately, after the private opposite party obtained anticipatory bail, he tried to rape the victim for which the second police case was lodged. He submits that private opposite party is influential personality in the locality as he is the ex-Pradhan of the Gram Panchayat.
4. State and the private opposite party are represented.
5. Learned advocate appearing for the State submits that, trial is in progress. Prosecution proposes to examine 14 witnesses.
6. Learned advocate appearing for the private opposite party submits that, the prosecution witnesses were absent from cross-examination. In this regard, he refers to orders dated August 21, 2024 on wards of the learned trial Court.
7. In response to the query of the Court, as to why the prosecution witnesses were not present, the answer of the petitioner is that the victim is undertaking Class-X examination.

8. Class-X examination commenced in the month of February, 2025. There is no reason why, the prosecution witnesses were absent on and from August 21, 2024 at the trial.
9. It is the contention of the petitioner that, the police did not conduct appropriate investigation.
10. As noted above, the trial is in progress. Petitioner is also not remediless in that regard.
11. So far as the second police complaint is concerned, after present police complaint, the private opposite party was enlarged on bail by the High Court. While the private opposite party was so being enlarged, the coordinate Bench recorded that, there were private disputes between the parties. Apparently, the petitioner before us purchased building materials from the private opposite party and did not pay for it.
12. It is contended on behalf of the petitioner that, such allegations are incorrect.
13. Be that as it may, since the prosecution is not proceeding with the trial in the present police case with the petitioner and the victim not making themselves available for cross-examination at the trial since August, 2024, we do not find it appropriate to cancel the bail of the private opposite party in the present police case.
14. CRM(DB) 2959 of 2024 is **dismissed**.
15. CRAN/1/2024 in CRM(DB) 1665 of 2023 is an application for relaxation one of the conditions of grant of bail.

16. The condition sought to be relaxed is staying outside the jurisdiction of the local police station.
17. In the facts and circumstances of the present case, since there are allegations and counter allegations, it would not be appropriate to relax such condition of the order granting bail.
18. In such circumstances CRAN/1/2024 in CRM(DB) 1665 of 2023 is **dismissed**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)