

24.08.2023
Serial no. 58
[G.S.D]

CRM (SB) 104 of 2023

Ref: An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure, 1973.

In the matter of : Prabhat Kumar Chakravarty

... .. Petitioner

Mr. D. Ray
Ms. K. Roy
Ms. Sarbani Mukhopadhyay
Mr. S. Mondal

... *For the Petitioner*

Mr. Tapas Maity

... For the O.P. Nos. 2 and 3

Mr. Ranabir Roychowdhury
Mr. Sandip Chakraborty

... For the State

The subject-matter of challenge relates to an application for cancellation of bail, which was granted on 12.4.2023 by the Learned CJM, Jhargram in connection with Jhargram P.S. Case No. 53 of 2023.

I have perused the order dated 12th April, 2023, wherein the Learned CJM, Jhargram, immediately on receipt of the records and the order-sheet, passed by the Learned Sessions Court, granting anticipatory bail, accepted put up petition filed by the accused persons and on the basis of the said order granted regular bail to the accused persons.

The order of anticipatory bail was granted on 10th of April, 2023 and the bail application was considered by the Learned CJM, Jhargram on 12th of April, 2023, almost within 48 hours. The said order did not reflect whether the Learned Public Prosecutor was heard on the said date concerned or the case diary was consulted regarding the progress of the case.

Ordinarily, the Learned Court should have heard the Learned Public Prosecutor, who is there to assist the Court for apprising the progress of the investigation.

Needless to state that when any anticipatory bail is allowed, it is not that the regular bail will be automatic. The Public Prosecutor is there in Court to point out various facts including change of circumstances, addition of sections, whether any new materials have cropped up in the interim period and other relevant issues, which may reflect the change of circumstance from the date when the anticipatory bail is granted and on the date when the bail is being considered by the Learned Trial Court.

The Learned CJM, Jhargram, henceforth, would see that, in a mechanical manner, the accused are not granted bail in cases where anticipatory bail is allowed in favour of the accused persons, who appear/surrender before the Court.

Be that as it may, there has been change of circumstances as, in the meantime, I find that charge-sheet has been submitted.

I have also gone through the case diary, which has been placed before this Court and I find that the majority of the statement under Section 161 of the Cr.P.C. were recorded in the month of March and April, 2023. I have also considered the documents, which have been assessed so far as the medical reports are concerned and having regard to the same, I am not inclined to interfere with the liberty of the petitioners, which have been granted by the order dated 12.4.2023.

In case, the complainant of the present litigation files any application that the accused persons are trying to interfere with his regular life or is creating any apprehension for deterring him to be a witness in the case, it should be brought to the notice of the Learned CJM, Jhargram or any other Learned Court, *in seisin*, of the matter. The said Court would impose conditions and/or cancel the bail, if required, without further reference to this Court or any other superior Court.

With the aforesaid observations, CRM(SB) 104 of 2023 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)