

31.07.2023
tkm/ct 28
sl no. 53

C.R.M. 2290 (DB) of 2023

In Re : An application under section 439(2) of the Code of Criminal Procedure

And

In Re : Smt. Koyel Chakraborty petitioner

Ms. Jiya Bose

..... for the petitioner

Mr. Swapan Banerjee
Ms Purnima Ghosh

..... for the petitioner

Inadvertent typographical error had crept in the order dated 3.7.2023.

In the cause title of the order “CRM 2290 of 2023” be read as “CRM (DB) 2290 of 2023”.

Other portions of the order shall remain the same.

Department is directed to incorporate necessary correction in the said order.

Order dated 17.5.2023 granting bail to opposite party no. 2 has been assailed.

It is contended that opposite party no. 2 cohabited with the petitioner on the false promise of marriage. Even prior to the statement of the petitioner being recorded under section 164 Cr.P.C bail was granted. In fact, men and agents of opposite party no. 2 threatened the petitioner not to record such statement. Hence, it is contended bail may be cancelled.

We have considered the materials on record including the FIR as well as the statement of the victim recorded under section 164

Cr.P.C. It appears that opposite party no. 2 is a doctor and petitioner is also an educated adult lady. Both of them met on social networking site and developed an intimate relationship. She cohabited with opposite party no. 2 on the promise of marriage.

Subsequently, she realized opposite party no. 2 had a steady relationship and intended to marry another girl.

Learned Judge considered the background and age of the parties who had entered into a relationship and enlarged opposite party no. 2 on bail.

Credibility of the allegation of rape requires to be assessed in the backdrop of the aforesaid attending circumstances during trial. Hence, we are of the view the judge was not unjustified to release opposite party no. 2 on bail.

It is strongly contended that the judge did not consider the statement of the lady recorded under section 164 Cr.P.C.

We have minutely examined the said statement. The statement does not add any other incriminating fact than what was already stated in the FIR.

Under such circumstances we do not find any reason to interfere with the order granting bail to opposite party no. 2.

With regard to the allegation that men and agents of opposite party no. 2 dissuaded the petitioner from recording her statement under section 164 Cr.P.C, we are of the view such allegation appears to be unfounded as the statement has, in fact, been recorded. There is no other allegation of misuse of liberty. Hence,

we do not wish to cancel the bail of opposite party no. 2 on the ground of post bail conduct too.

In the event, there is any threat or intimidation held out to the petitioner in future, it is open to her to agitate such issue before the trial court and seek necessary redress in accordance with law.

With the aforesaid observations, application for cancellation of bail is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)