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10.08.2023
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C.R.M.(SB) 114 of 2023

In Re: An application for cancellation of interim bail under Section 439(2) of the Code of Criminal Procedure, 1973;

Smt. Mamta Gupta
Versus
The State of West Bengal and another

Mr. Susanta Kumar Pal
Mr. Kamalesh Chandra Saha
Ms. Payel Mitra.
...for the petitioner.

Mr. Saswata Gopal Mukherjee, Ld.P.P.
Mr. Imran Ali
Ms. Debjani Sahu.
...for the State.

Mr. Arnab Chatterjee
Mr. Subhadeep Chatterjee
Ms. Arpita Kundu
Ms. Poulami Bose.
...for the opposite party no.2.

The present application for cancellation of bail was preferred in respect of the order dated 29.05.2023 passed by the learned Additional Chief Judicial Magistrate at Barrackpore, North 24 Parganas. The said case was registered under Sections 447/341/322/354/354B/506/34 of the Indian Penal Code.

I have perused the order dated 29.05.2023 which is an interim bail being granted to the opposite party no.2. Learned ACJM, Barrackpore fixed the next date on 13.10.2023 for appearance, IO's report and case diary. I have considered the nature of the allegations made and the issue relating to custodial

interrogation. I have also taken into account the communication made on 07.06.2023 by the de facto complainant wherein she has alleged that the principal accused has deployed 4-5 unknown miscreants to outrage her modesty forcefully who made also physical contact and unlawful demand for sexual favours. Subsequent to the said communication dated 07.06.2023 although affidavit-in-reply has been filed at the instance of the petitioner, but no document has been enclosed to show that till August, 2023, there has been any communication made to any authority wherein the accused person has violated the condition of bail or conducted himself in a manner which would amount to misuse of liberty granted to him.

Learned advocate submitted that in the meantime the complainant prayed for her statement being recorded under Section 164 of the Code of Criminal Procedure before the learned ACJM, Barrackpore and the learned ACJM, Barrackpore had taken steps for such statement under Section 164 of the Code of Criminal Procedure being recorded.

Be that as it may, I reserve my comment regarding the act, if any, which has been taken by the learned ACJM, Barrackpore.

Records reflect that the next date has been fixed on 13th October, 2023 for appearance.

Learned ACJM, Barrackpore is directed to consider the application for bail in its completeness. Learned ACJM, Barrackpore would give an audience to the de facto complainant, peruse the case

diary, the materials available and thereafter arrive at his own finding regarding the factum of the liberty of the opposite party no.2.

With the aforesaid observations, CRM (SB) 114 of 2023 is disposed of.

Pending application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Tirthankar Ghosh, J.)