

Item No.59
Ct.No.34
dc.

C.R.M. (SB) 122 of 2023

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

And

In Re : **Satyapada Nanda** ... Petitioner.

Mr. Soumik Ganguli,
Mr. Supriyo Shasmal ... For the Petitioner.

Ms. Sayanti Santra ... For the State.

The present application relates to an order dated 19.05.2023 passed by learned Additional Chief Judicial Magistrate, Kakdwip wherein the prayer for bail of the opposite party no.2 was allowed. The brief summary of the case relates to a sum of Rs.71,95,000/- being handed over to the opposite party no.2 by the complainant and the accused successfully allured to misappropriate such money. The petitioner submits that the said amount of money is from the earnings of the petitioner and his wife both of whom were retired school teachers and the money was generated from their salary, pension benefits including the provident fund money.

I have considered the anxiety of the petitioner. However, the present is a criminal case and the present application is for cancellation of bail. The learned Magistrate after one week custody of the accused, considered the progress of the investigation and was of the opinion that further custody of the accused was not required in view of the substratum of the case relating to recovery of the amount

which was given by the complainant to the accused/ opposite party no.2.

Learned advocate appearing for the petitioner submits that even the handwriting of the accused was not taken and prior to that he was granted bail and his handwriting was taken on 30.05.2023.

I have considered the submissions advanced by Mr. Ganguli, learned advocate for the petitioner, but having regard to the totality of the circumstances at this stage, the priority of consideration of this Court is whether any further custodial detention of the present accused is required. The case is based on documents and tracing the misappropriated money. The investigating agency is carrying on with their investigation. Nothing is there on record to suggest that the opposite party no.2 has not cooperated with the investigation.

It has been pointed out that the opposite party no.2 has threatened the complainant. However, if such a situation arise, under the relevant provisions of law, the investigating agency or the complainant would file application before the learned Magistrate for incorporating sections which are there in the Indian Penal Code for protection of the witnesses.

The learned trial court will also be at liberty, if the conduct of the accused interferes with a civilian's right to file a litigation and in that case, no further reference is required to be made to this Court as the learned Additional Chief Judicial Magistrate himself has granted bail.

Having regard to the present circumstances existing, I am not inclined to interfere with the order of bail. Learned

Magistrate would follow the observations made above and take his decision, if circumstances so demand in course of investigation and trial of the case.

With the aforesaid observations, the application being CRM (SB) 122 of 2023 is disposed of.

Pending connected 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 with all requisite formalities.

(Tirthankar Ghosh, J.)