

20.02.2023
Ct. No.34
S/L No.56
KS

C.R.R. 2115 of 2021
Afroz Ali Ansari
-Vs.-
The State of West Bengal

Mr. Sourav Chatterjee
Mr. Tanmoy Chattopadhyay
.....For the Petitioner
Mr. Saswata Gopal Mukherjee, Ld. P.P.
Mr. Arijit Ganguly
Mrs. Monisha Sharma
.....For the State

The present revisional application was preferred challenging NGR No.133 of 2021, NCR No.131 of 2021 arising out of Sankrail Police Station GDE No.541 of 2021 dated March 10, 2021 under Section 110 of the Code of Criminal Procedure, 1973 pending before the Court of Learned Special Executive Magistrate, Howrah Police Commissionerate, District – Howrah.

Pursuant to the earlier order passed, Mr. Chatterjee learned advocate appearing for the petitioner draws the attention of the Court to the certified copy enclosed alongwith the Supplementary Affidavit. Supplementary Affidavit reflects that the police report referred to was presented before the Learned Executive Magistrate on 5th March, 2021 and there was a direction to appear before the Court on 22.03.2021. On 22.03.2021 production warrant was issued for appearance as it was brought to the notice that the present petitioner was in jail custody in connection with a case. On 01.04.2021 the records were put up and a prayer for bail was advanced which was rejected by the learned Magistrate. The order

dated 19.04.2021 reflects that the petitioner was released on bail pursuant to an order passed by the learned District & Sessions Judge, Howrah and the learned Executive Magistrate fixed 29.04.2021 as the next date for appearance. The order dated 25.11.2021 reflects that the learned Executive Magistrate fixed 27.04.2022 for filing show cause, in the meantime the petitioner approached this Court.

Having regard to the fact that the petitioner is yet to answer the charges by replying to the show-cause notice which was issued by the learned Executive Magistrate, I am of the view that the allegations which have been brought on record are yet to be answered by the petitioner. Mr. Chatterjee has referred to the report earlier submitted and contended that, in fact, the police authorities initially filed a report in respect of some other accused and, thereafter referred to only three cases which were of different years spread over a period of seven years and thereby invoked the powers of the learned Executive Magistrate. According to the petitioner his complicity in the said cases were of an associate, if at all accepted to be true.

Mr. Chatterjee, learned advocate appearing for the petitioner also submits that the petitioner has been a victim of political vendetta.

Mr. Arijit Ganguly, learned advocate appears for the State opposes such contentions and submits that ordinarily persons having criminal antecedents are directed to submit good behaviour bond, the same is a part of the law and order duty.

I have considered the submissions advanced by the learned advocate appearing for the petitioner as well as the State, I direct that the submissions which have been made by the petitioner must be documented before the appropriate Court in order to rebut the issues for which he has

been asked to show cause or face the consequences as a citizen for good behaviour. Needless to state that the factum of time period or the physical appearance of the present petitioner could not be ascertained from the certified copy and the nature of the recording made. If the petitioner has been physically appearing before the Court, the period of six months must be counted from the said date. The learned Executive Magistrate will strictly adhere to the provisions of Section 116(6) of the Code of Criminal Procedure. No unnecessary stretching of time should be allowed, if the applicant is desirous of adducing evidence, the same must be within the time period so prescribed under the law.

With the aforesaid observations, C.R.R. 2115 of 2021 is disposed of.

Pending applications, if any, are consequently disposed of.

The points which have been canvassed in the revisional application are kept open for being incorporated in the show-cause notice proposed to be filed. The petitioner is on bail as is reflected from the order sheet, he would remain on the same bail till the disposal of NGR No.133 of 2021, NCR No.131 of 2021 arising out of Sankrail Police Station GDE No.541 of 2021 dated March 10, 2021 under Section 110 of the Code of Criminal Procedure pending before the Learned Special Executive Magistrate, Howrah Police Commissionerate, District – Howrah.

All parties are directed to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Tirthankar Ghosh, J.)