

24.08.2023

Item No.60

Ct.No.34

dc.

C.R.M. (SB) 140 of 2023

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

And

In Re : **Ujjal Chatterjee** ... Petitioner.

Mr. Ujjal Chatterjee ... Petitioner (In Person).

Mr. Ranabir Roy Chowdhury,
Mr. Mainak Gupta ... For the State.

Mr. Sandipan Ganguly,
Mr. Soumya Nag ... For the Opposite Party No.2.

Mr. Kaushik Modak ... For the Opposite Party No.3.

I have considered the orders dated 15.06.2023 and 16.06.2023 passed by learned Chief Judicial Magistrate, Alipore in connection with Tollygunj Police Station Case No. 97 of 2023 under Sections 384/418/420/406/120B of the Indian Penal Code wherein the opposite party nos. 2 and 3 appeared, surrendered before the court and were released on bail. Records reflect that while considering the prayer for bail of the opposite party no.2, the learned Magistrate did call for the case diary, perused the case diary and released the opposite party no.2 on bail. While arriving at his conclusion for granting bail, some of the observations of the learned Magistrate may not be in tune with the stage at which he was considering the application as the investigation of the case is being progress. However, the order reflects that there was complete application of mind by the learned Magistrate

particularly, with regard to the factum of the case being restricted to documents and the opposite party no.2 falling within the provisions of Section 437(1) of the Code of Criminal Procedure. There are recordings of the learned Magistrate to the effect that there was compliance regarding the provisions of Section 41A of the Code of Criminal Procedure.

Having regard to the totality of the circumstances, I am of the view that although a case has been made out for the time being to be investigated, but the same do not call for any interference by this Court to cancel the bail which has already been granted. The petitioner appearing in person has repeatedly thrived on issues particularly, with regard to he being threatened, coerced and fear being instilled within him both at the instance of other unknown miscreants as well as the present opposite parties.

I find that in the application under Section 156(3) of the Code of Criminal Procedure make references to such incident which stretched to the period up to the year 2015. So far as the present opposite party nos. 2 and 3 are concerned, there are allegations against them with regard to allegedly manipulating the documents, using the same for their own benefit and depriving the petitioner. These are all part and parcel of the investigation. The investigation of the case is in progress as the same has been very recently registered in the month of May 2023. The investigating officer would in the fitness of circumstances assess regarding

the genuinity of the documents as also the genuinity of the allegations made in the application under Section 156(3) of the Code of Criminal Procedure.

The opposite party nos. 2 and 3 are ladies. As I have earlier observed that the learned Chief Judicial Magistrate, Alipore has applied his mind while exercising his jurisdiction for granting bail in their favour, I intend to add only one condition that the opposite party nos. 2 and 3 would make themselves available as and when required and if they intend to leave the country, they would inform the investigating agency and the court concerned.

As no interference is made in respect of the order dated 15.06.2023, the application being CRM (SB) 140 of 2023 is dismissed.

Pending connected application, if any, is consequently disposed of.

Case diary be returned to the learned advocate appearing for the State.

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.)