

30.01.2023
Sl. No.74
akd

C. R. M. (DB) 2654 of 2022

In Re : An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure filed on 28.07.2022 :

A N D

In Re : Bibhuti Bhusan Manna

..... Petitioner

Mr. Tushar Kanti Mukherjee
Mr. Hiranmay Dutta

... .. for the petitioner

Mr. Kallol Kumar Basu
Md. Jannat-ul-Firdous

... .. for opposite party nos. 2 & 3

Mr. Antarikhya Basu

... .. for the State

By order dated 24.08.2020, opposite party nos.2 & 3 herein were enlarged on bail.

Petitioner/de-facto complainant unsuccessfully assailed the said order before the learned Additional Sessions Judge, Basirhat, North 24-Parganas. Hence, he is before this court.

Learned Advocate for the petitioner submits opposite party nos.2 & 3 herein were enlarged on bail on the same day without considering the gravity of the offence and the materials on record. Brother of the petitioner had suffered severe head injury. Hence, he prays for cancellation of bail of opposite party nos.2 & 3 herein.

Learned Advocate for the State produces the case diary.

We have considered the materials on record. Bail was granted to opposite party nos.2 & 3 herein in August, 2020 when pandemic conditions were prevailing.

In view of the peculiar circumstances prevailing at the time when opposite party nos.2 & 3 were enlarged on bail, we are unwilling

to interfere with the impugned order. There is no allegation that the said opposite party nos.2 & 3 had misused their liberty.

Purpose of undertrial detention is not to punish the offender. No doubt, gravity of the offence and strength of evidence collected during investigation are relevant but in the facts of the present case, when prevailing pandemic conditions prompted the trial court to enlarge the opposite party nos.2 & 3 herein on bail, we are not inclined to interfere with the impugned order granting bail to them.

CRM (DB) 2654 of 2022 is thus disposed of.

We however, direct the trial court to proceed with the trial with utmost expedition and conclude the same at an early date. In the event, opposite party nos.2 & 3 herein misuse their liberty or do not cooperate with the trial proceedings, it shall be open to the petitioner to renew his prayer in accordance with law.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)