

22.8.2023

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**CRA (SB) 127 of 2023
with
IA NO. CRAN 1 of 2023**

**Manu Majumder
Vs.
The State of West Bengal & Ors.**

Mr. Prosenjit Mukherjee
Mr. Arghya Kamal Das
Mr. Ishan Bhattacharya

...For the appellant.

Mr. Pradyat Saha

...For the opposite party nos. 2-22.

Mr. Prasun Kumar Dutta Ld. A.P.P.
Mr. Pravas Bhattacharya
Mr. Pratick Bose

...For the State.

Re: IA NO. CRAN 1 of 2023

Considering the explanation of delay in paragraph 4 of the petition under Section 5 of the Limitation Act, the delay is condoned.

Accordingly, CRAN 1 of 2023 is disposed of.

Re: CRA (SB) 127 of 2023

Heard the learned advocates for the parties.

The appeal is admitted.

This appeal has been filed assailing the Order No. 20 dated 3rd January, 2023 in connection with the SC ST Case No. 04 of 2022 passed by learned Special Judge, 1st Court, Asansol, Paschim Bardhaman.

By the order impugned learned Special Judge granted bail to the accused/opposite parties involving the offence under Sections 323/325/354/506/427/34 of the Indian Penal Code read with Section 3(i)(r)(s)(u) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act.

Mr. Prosenjit Mukherjee, learned advocate appearing on behalf of the appellant/defacto complainant, assailing the order impugned, has submitted, inter alia, that bail was granted to the accused/opposite parties only considering the fact that they surrendered before the court without complying the provision of Section 15A of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act. It is further contended on behalf of the appellant that the order of rejection of the anticipatory bail by the Hon'ble Court in connection with CRM (A) 1998 of 2022 was not considered.

Mr. Pradyat Saha, learned advocate appearing on behalf of the accused/opposite parties, has submitted that the defacto complainant was present though nothing is appearing from the order impugned. It is also contended that there is no bar to grant bail after rejection of anticipatory bail by the Hon'ble Court.

Mr. Prasun Kumar Dutta, learned Additional Public Prosecutor, appearing on behalf of the State also assailed the order impugned for non-compliance of provision of Section 15A of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act.

On careful perusal of the order impugned, I find that after granting bail learned Special Judge issued notice upon the defacto complainant for hearing of bail petition as per provision of 15A of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act.

I failed to make me understand that what prompted the learned Special Judge to issue notice under Section 15A of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act upon the defacto complainant regarding hearing of the bail petition after granting bail. Provision of Section 15A of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act clearly spells out that before hearing any matter including bail petition in the proceeding under the Act shall be subjected to notice to the victim/defacto complainant.

It is needless to mention that the learned Special Judge did not comply the mandatory provision of the Act before hearing the bail petition. Thus, the order of bail passed by the learned Special Judge dated 3rd January, 2023 stands cancelled.

All the opposite parties are directed to surrender before the learned Special Judge (Trial Court) within a week from date and liberty is given to the opposite parties to file bail application before the learned Special Judge. The learned Special Judge will consider the bail application after complying the provision of Section 15A of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act.

With the aforesaid observations, the appeal stands disposed of.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Bibhas Ranjan De, J.)