

19.09.2023.
35.
Ct.No.28.
as

C.R.M. (DB) 3283 of 2023

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

In Re: HK Surana Jewellers Private Limited.

Mr. Sanjoy Banerjee,
Mr. Surendra Kr. Singhi,
Mr. Sumon Roy,
Ms. Ritiya Mukherjee.

...for the Petitioner.

1. Order dated 09.08.2023 granting interim bail to opposite party-accused has been assailed. It is alleged in terms of an agreement entered by and between the parties diamonds valued at Rs.1.89 crores had been handed over to opposite party No.2. On the plea that the diamonds were of substandard quality, opposite party No.2 refused to pay. When he was called upon to return the diamond, he misappropriated them. Learned Judge failed to consider his criminal conduct and enlarged opposite party No.2 on bail. Stolen property has not yet been recovered. Further detention is necessary. Hence, bail may be cancelled.
2. We have considered the grievance of the petitioner. He has vehemently argued the investigation is not being conducted properly. It has hardly progressed and stolen articles have not been recovered.
3. Opposite party No.2-accused was arrested and has suffered incarceration for 52 days. He was taken into police custody but there was no development.

4. In view of these circumstances, learned Magistrate was of the view further detention is not necessary. The court was further persuaded to come to such conclusion in respect of dishonoured cheques as collateral proceedings under Section 138 of Negotiable Instruments Act are pending between the parties which were issued by opposite party no.2 as sale consideration. Reference to these facts show application of mind of the Court to the nature of allegation and other attending circumstances while granting bail. It cannot be said that the order is an unreasoned one. Grievance of the petitioner with regard to indifferent investigation may be addressed through appropriate remedies but not cancellation of bail.

5. Hence, we do not find any merit and the application is disposed by giving liberty to the petitioner to agitate his grievance regarding indifferent investigation in accordance with law.

(Ajoy Kumar Mukherjee, J.)

(Joymalya Bagchi, J.)