

17.05.2023
ct 28/tkm
sl no. 74

C.R.M. (DB) 3357 of 2022

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

And

In Re : Kingshuk Sengupta petitioner

Mr. G K Singh
Ms. Munmun Mondal

..... for the petitioner

Ms. Z N Khan
Md. Kutubuddin

..... for the State

Petitioner has assailed order dated 18.8.2022 granting bail to opposite party no. 2 on twin grounds. Firstly, it is contended that opposite party no. 2 did not disclose that his bail prayer had been rejected by the learned Magistrate on a number of occasions. Secondly, the learned judge did not consider that the opposite party no. 2 had absconded for more than a decade.

We have considered the aforesaid submissions made on behalf of the petitioner. With regard to the first submission, we note that bail prayer of opposite party no. 2 was rejected by the Magistrate whereas the impugned order granting bail was passed by a superior court namely Additional Sessions Judge. Hence, failure to disclose rejection by the Magistrate may not have affected discretion of the court and enlarging opposite party no. 2 on bail.

The other aspect relates to abscondence of opposite party no. 2. Initially case was registered under section 279/304A IPC. Opposite party no. 2 was released on bail. Thereafter charge sheet came to be filed under section 304 part II of the IPC and warrant of

arrest was issued. The warrant was not executed for a protracted period of time. Finally opposite party no. 2 was arrested. Though conduct of opposite party no. 2 is not appreciable, in view of the fact that there is no possibility of trial commencing let alone concluding in the near future, his enlargement of bail cannot be said to be perverse.

However, noting the issue of long abscondence we direct that opposite party no. 2 while on bail, shall remain within the jurisdiction of Tala P.S except for the purpose of attending court proceeding and shall report to the Officer-in-Charge of Tala P.S once in a week until further orders. He shall also appear before the trial court on every date of hearing without fail and shall not seek adjournments and/or cause delay of the proceeding. Violation of any of the conditions would entail cancellation of bail by the trial court without reference to this court.

With these directions, application for cancellation of bail is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)