

22.12.2023
Serial no. 7
[G.S.D]

CRR 4833 of 2023

**In the matter of : Md. Rabiul Awail @ Awail
@Alom@Rabiul Awali**

... ... Petitioner

Mr. Rajdeep Majumder
Mr. M. Mukherjee
Mr. S. Sinha

... ... For the Petitioner

Mr. Debasish Roy
Mr. Arijit Ganguly

... ...*For the State*

The petitioner has challenged the order dated 18.10.2023 passed by the Id. Addl. District and Sessions Judge, 3rd Court, Fast Track Court, Berhampore, wherein the petitioner after having surrendered was initially granted interim bail. Subsequently, the interim bail was cancelled and he was taken into custody.

Mr. Majumdar, Id. advocate for the petitioner submits that only on the basis of two G.D. Entries the petitioner was taken into custody. According to the Id. Advocate the bail was interfered for suiting the interest of the defacto-complainant and the for the purpose of creating circumstance to jeopardize the liberty of the present petitioner.

Reliance was placed on a judgment reported in (2020) 2 SCC 743 (*Myakala Dharmarajam & Ors. vs- State of Telangana & Anr.*) to emphasize that the post bail conduct for cancellation of bail cannot be on vague allegations.

It was further emphasized on behalf of Id. Advocate for the petitioner that the propriety and legality of the order so passed calls for interference by this court and, as such, petitioner has invoked the revisional jurisdiction.

Mr. Roy, Id. Public Prosecutor, appearing for the State has submitted a report enclosing the G.D. Entries.

It has been emphasized on behalf of the State that the conduct of the present petitioner was enquired into by the investigating agency and there has been finding to that effect and the Id. trial court in a case under section 302 of the IPC, thereafter, applied its mind for cancellation of the interim bail, already granted.

According to the Id. Public Prosecutor, the allegations/issues so canvassed were never vague and the Id. trial court has acted in adherence to the principles of cancellation of bail.

Be that as it may, the roster of this court has been segregated in a manner, that the bail applications are to be heard by a Division Bench in case of offences where prescribed punishment are more than seven years. There is specific provision in the Cr.P.C. to pray for bail wherein

legality or propriety of the order of cancellation of bail can be brought into notice of the concerned court. The jurisdiction and power to invoke the provisions of section 401 and 482 of the Cr.p.c. are exceptional in nature and should not be ordinarily given effect to.

I have considered the maintainability of the present revisional application and I am of the view that as the petitioner has already been taken into custody, in the fitness of circumstances, it would be proper for the petitioner to approach appropriate court having determination for deciding bail.

Hence, no interference is made in respect of the present revisional application being CRR 4833 of 2023 and the same is accordingly dismissed.

Pending application, if any, is also disposed of.

The report so submitted by Id. Public Prosecutor be kept with the record.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Tirthankar Ghosh, J.)