

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

23.11.2023

Serial No.17

Court No.1

CHC

C.R.M.(DB) 331 of 2023

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

And

In the matter of: **Basanti Biswas**

..... petitioner

Mr. Subhasish Misra, Advocate

Mr. Swarup Das, Advocate

Mr. Satyajit Paul, Advocate

....for the petitioner

Mr. Ujjwal Luksom, Advocate

Mr. Arjun Chowdhury, Advocate

....for the State

Mr. Sudip Guha, Advocate

Mr. Sandip Guha Roy, Advocate

Mr. Manik Das, Advocate

...for the private opposite parties nos.2 to 8

Petitioner prays for cancellation of bail granted to the private opposite parties by the order dated May 10, 2023 passed by the jurisdictional Court.

Learned advocate appearing for the petitioner submits that, the police did not incorporate Section 307 of the Indian Penal Code, 1860 given the nature of the complaint and the injury suffered by the petitioner. He submits that, there was an attempt to murder the petitioner. Learned Judge erred in

granting bail to the private opposite parties on the date of the surrender without considering the materials in the Case Diary.

State and the private opposite parties are represented.

We perused the materials in the Case Diary.

There are two injury reports of two different persons. The injury report of the petitioner is annexed to the petition for cancellation. The injury report of the petitioner suggests that, the petitioner suffered incised wound by blade on neck, chest, both arms, forearm, right cheek and bruises over arm and forearm.

The injury report of the daughter of the petitioner suggests that she did not suffer any external injury.

Police complaint is one of assault.

Learned Jurisdictional Court considered the fact that, the private opposite parties responded to the notice under Section 41A of the Criminal Procedure Code issued by the Investigating Officer and that, the private opposite parties were surrendering before the Court. The jurisdictional Court held that since the private opposite parties complied with the notice there was no need for custodial detention for the purpose of investigation.

Considering the nature of the injury suffered by the persons we are not minded to reverse the finding of the learned jurisdictional Court with regard to need for custodial detention of the private opposite parties.

Moreover, as rightly noted by the learned jurisdictional Court that, the private opposite parties complied with the notice under Section 41A of the Criminal Procedure Code.

In such circumstances, CRM(DB) 331 of 2023 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)