

AD-12
Ct No.01
Jalpaiguri
06.02.2023
TN

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (DB) 255 of 2022

In Re: - An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure, 1973.

And

In the matter of: Sarathi Rishi @ Sarthi Rishi

.... petitioner

Mr. Amit Sinha

... for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Ujjwal Luksom

... for the State

Mr. Hillol Saha Podder

....for the opposite party no.2

Learned counsel for the petitioner/*de facto* complainant submits that the accused person, after getting bail, has threatened the petitioner, for which a subsequent complaint was lodged and a case has been initiated. Learned counsel places reliance on Annexure P5 at page-41 of the present application, which is a copy of the said complaint.

It is further submitted that in the complaint against the petitioner, the charge under Section 498A was maintained but the charge under Section 376 of the Indian Penal Code was deleted. It is submitted that for such reasons, the bail of the petitioner ought to be cancelled.

Learned counsel for the State contends that he is not aware of the current development of the second complaint lodged by the petitioner. However, he seeks an adjournment to take instructions on that.

Learned counsel for the accused person submits that the accused was not at fault for non-mention of any section in the FIR against the accused. That apart, it is argued that the allegations of subsequent threat are manufactured for the purpose of the present application for cancellation of bail.

We have perused the nature of the allegation as raised in the subsequent complaint dated May 17, 2022. Conspicuously, on the self-same date as the lodging of the complaint, the present application for cancellation of bail was also filed. We cannot rule out the possibility of the telephonic threat alleged by the petitioner being concocted for the purpose of preferring the present cancellation application, both being exactly contemporaneous.

In such view of the matter, we are not inclined to grant cancellation of the bail obtained by the petitioner.

Accordingly, CRM (DB) 255 of 2022 is dismissed.

However, it is made clear that the accused person shall not, in any manner, make any inducement, threat or promise to the victim during the entire period of bail.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)