

26.09.2023.

Item No. 71

Court No.1

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*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE*

C.R.M. (DB) No. 439 of 2023

In Re:- An application for relaxation of condition of bail under Section 439(1)(b) of the Code of Criminal Procedure filed on 31.08.2023.

And

In the matter of: **Bijay Dhar.** ...petitioner

Mr. Nilay Chakraborty.For the State

1. None appears for the petitioner when the matter is taken up for hearing. No accommodation is prayed for.

2. It appears from the records that the conditional bail was granted subject to the petitioner making payment of Rs.3 lakhs and odd in three equal monthly instalments to the Bank. It further appears from the records that the petitioner has failed to make payment and the bail was cancelled by the Court below on 24th August, 2023.

3. In the instant application, the petitioner has averred that the payment cannot be made a condition precedent of granting an order of bail.

4. Counsel for the State relies upon a recent decision of the Hon'ble Supreme Court of India in the case of ***Ramesh Kumar – Vs. – The State of NCT of Delhi*** being ***S.L.P. (Criminal) No. 2358 of 2023*** delivered on 4th

July, 2023 reported in **2023 Line Law (SC) 496** where in respect of loss caused to public money, the bail can be granted conditional upon payment.

5. In the instant case, the petitioner, who was an agent/employee of the Bank, has defrauded it for a sum of Rs.3 lakhs and odd.

6. In those circumstances, the application for modification/relaxation of bail of the petitioner granted on 8th June, 2023 is declined. In any event, the bail already granted stands cancelled by the Court below.

7. The accused shall be taken into custody.

8. Hence, C.R.M. (DB) No.439 of 2023 shall stand disposed of.

9. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Supratim Bhattacharya, J.) (Rajasekhar Mantha, J.)