

17.11.2023

Serial no.6

Court No.1

(CHC)

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

CRM 1135 of 2021

In re : An Application under Section 439(2) read with Section 482 of the Code of Criminal Procedure.

-And-

In the matter of : **The Central Bureau of Investigation**

... .. Petitioner

Mr. Sudipto Kumar Mazumdar, Ld. D.S.G.I.

Mr. Ajoy Kumar Singhania, Advocate

*... ..For the **petitioner***

The application is at the behest of the C.B.I. (Central Bureau of Investigation) for cancellation of bail granted to the private respondents by the learned Additional Sessions Judge, Tufanganj, Cooch Behar on November 15, 2021 in Criminal Misc. Case no.58 of 2021.

Learned Deputy Solicitor General appearing in support of the application submits that, the learned Judge held a mini trial and proceeded to consider the various materials which the learned Judge was not required to consider while granting bail to the private respondents. He submits that, the investigation was initially conducted by the West Bengal Police, pursuant to the order passed by Hon'ble High Court. Investigation was taken over by the C.B.I. Subsequent to C.B.I. taking over the investigation, a supplementary charge-sheet was submitted. He contends that, since the order granting bail to the private opposite parties contains observations with regard to the

incident itself, such observations should not prejudice the prosecution at the trial.

None appears for the private opposite parties despite service.

We considered the order granting bail to the private opposite parties. The order dated November 15, 2021 passed in Criminal Misc. Case no.58 of 2021 is detailed and contains reasons.

In an application for cancellation of bail granted Courts are slow to cancel the bail granted in view of the involvement of personal liberty of the citizen.

The order granting bail cannot be said to be perverse.

It is trite law that, observations made by the Court, whether the jurisdictional Court or the High Court, granting bail to an accused, will not prejudice the parties at the trial since, such observations are *prima facie* in nature.

Therefore, the apprehension expressed on behalf of the petitioner that, the learned Judge while granting bail, held a mini trial is misplaced. However, it is clarified that, the observations made by the learned Judge granting bail to the private opposite parties will be limited to the bail granted and will not affect the parties at the trial.

No post bail misconduct is established by the petitioner.

In such circumstances, we do not find any ground to interfere with the order granting bail to the private opposite parties.

CRM 1135 of 2021 is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

