

26.04.2024
Court No.237
Item.04
(Srimanta)

CRM (SB)/2/2024
(Assigned)

In Re: An application for relaxation, modification/waiver of condition of bail under Section 439(1)(b) of the Code of Criminal Procedure, 1973.

And

In the matter of: **Zarina Momin Khan @ Zareen Khan**
...Petitioner.

Mr. Ayan Bhattacharjee,
Ms. Priyanka Agarwal
...for the petitioner.

Ms. Baisali Basu
...for the State.

Mr. Sourav Chatterjee,
Mr. Satadru Lahiri,
Mr. Safdar Azam
...for the de facto complainant.

1. This is an application for relaxation/modification of condition of bail order passed on 26.12.2023 by the Additional Chief Judicial Magistrate, Sealdah under Section 439(1)(b) of the Code of Criminal Procedure thereby learned Additional Chief Judicial Magistrate, Sealdah confirmed the interim bail and also imposing a condition that the petitioner shall appear before the Trial Court on every date and further shall not leave the country without seeking prior permission of the learned Trial Court.

2. The instant application has been filed on the prayer for relaxation of condition imposed by the learned Chief Judicial Magistrate, Sealdah by the order dated 26.12.2023. Mr.

Bhattacharjee, learned Counsel appearing on behalf of the petitioner in course of hearing has submitted that he only prays for modification of order whereby learned Additional Chief Judicial Magistrate directed the petitioner to appear before the Trial Court on every date whereas Mr. Bhattacharjee did not pray for any kind of relaxation regarding the condition not to leave country without seeking prior permission of the learned Trial Court.

3. In opposition to that one written objection has been filed on behalf of the opposite parties. Mr. Chatterjee, learned Counsel appearing on behalf of the opposite parties, in his usual fairness, has submitted that regarding modification of appearance before the Court regularly is exclusive domain of the Court and Court can exercise its jurisdiction with regard to modification order directing the appearance before the Trial Court on every date. Keeping an eye to the relevant provision of the Code of Criminal Procedure wherein an accused can file an application for adjournment before the Trial Court on the ground of exigency or in unavoidable situation. Therefore, in my opinion, the Court cannot impose any such condition directing an accused to appear before the Court every date without mentioning any exemption in case of any exigency or unavoidable situation at the threshold of trial.

4. In the aforesaid view of the matter, the condition of appearance of the accused before the Trial Court on every date is being modified with a direction to appear before the Trial Court regularly save and except on the days if the accused finds any extreme predicament or comes across any unavoidable situation.

5. Accordingly, the condition of appearance of accused on every date is being modified.

6. It is reported that an application under Section 205 is pending before the Trial Court for disposal.

7. Learned Trial Court shall dispose of that application without being influenced by the order of this Court in any manner.
8. CRM (SB)/2/2024 stands disposed of.
9. Both parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)