

15-07-2024
Subha
Item no.06
Ct no.35

IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction

**CRA(SB) 53 of 2024
CRAN 1 of 2024
CRAN 2 of 2024**

**Smt. Sharmila Baperi Sarkar
-versus-
The State of west Bengal and ors.**

Mr. P. K Prakash
...for the Appellant.
Mr. Arnab Chatterjee
Ms. Paulami Bose
...for the opposite party nos. 2 and 3.

Mr. Sanjay Bardhan
Md. Sayeed Khan
Mr. Subhajit Chowdhury
...for the State.

CRAN 1 OF 2024

The applicant has preferred an application for condonation of delay for preferring the appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act, 1989.

Learned advocate appearing for the applicant draws the attention of the court to the fact that the subject matter of challenge relates to the delay of 20 days.

Mr. Chatterjee, learned advocate appearing for the private opposite party nos. 2 and 3 submits that under the provisions of Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act, 1989, between 90 and 180 days the delay is only to be condoned. The de facto complainant has filed beyond the said period and prayed for condonation of delay. The condonation so prayed for is 20 days in preferring the present appeal. Under no circumstances, even if the said statute has provided a specific period the general law relating to limitation cannot be thrown away.

Applicant has specifically explained how on 05-09-2023, he had knowledge about the factum of the bail being granted to the accused/opposite parties. In view of the reasons so assigned by the applicants, the prayer for condonation of delay is allowed. Accordingly, the application being CRAN 1 of 2024 is allowed and disposed of.

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Affidavit-in-opposition and affidavit in rely filed by the opposite parties and the appellant be kept with the record.

The present appeal has been preferred for cancellation of bail of the opposite party nos. 2 and 3. Records of this case reflect that the opposite party nos. 2 and 3 were granted ad interim bail on 05-07-2023 and 04-08-2023 respectively. In both these orders, it is reflected that the de facto complainant was present in court and participated in the hearing. The subsequent confirmation of appeal was because of the report under Section 173 of the Code of Criminal Procedure filed by the Investigating Agency. The learned court recorded that on 04-08-2023 charge-sheet has been submitted by the Investigating Agency and the Investigating Agency as the investigation was concluded. The learned court confirmed the earlier ad interim bail by its order dated 05-09-2023. It has been submitted that there is a civil case pending between the parties and the investigation has been concluded.

The appellant was not aggrieved by initial orders of ad interim bail granted on 05-07-2023 and 04-08-2023. Having considered the nature of accusation and the materials placed and /or collected by the Investigating Agency and the case being ready for trial at this belated stage since there was an initial compliance by the learned Magistrate while granting ad interim bail, I do not think that it is necessary at this stage to interfere with the order of confirmation.

Accordingly, CRA (SB) 53 of 2024 is dismissed. Pending any connected application, is consequently disposed of.

Case diary be returned to the learned advocate appearing for the State.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

[Tirthankar Ghosh, J]