

DL-45 wt 46

25.04.2024
Court No.29
(AD)

MAT 1109 of 2018

**Pawan Kumar Ruia
Vs.
State of West Bengal & Ors.
With
CRR 1107 of 2024**

**Pawan Kumar Ruia
Vs.
The State of West Bengal & Anr.
(Assigned)**

*Mr. Bodhisatha Biswas
Mr. Arijit Chatterjee
... for the appellant in MAT 1109 of 2018.*

*Mr. Amal Kumar Sen
Mr. Suman Sengupta
Mr. Sambuddha Dutta
Mr. Sanatan Panja
Mr. Lal Mohan Basu
... for the State in MAT 1109 of 2018.*

*Mr. Sabyasachi Banerjee
Mr. Ayan Bhattacharyya
Mr. Pinak Kumar Mitra
Mr. Suvranil Saha
... for the petitioner in CRR 1107 of 2024.*

*Mr. Debasish Roy, Ld. PP
Mr. Rudradipta Nandy, Ld. APP
... for the State in CRR 1107 of 2024.*

1. Appeal and a revisional application are taken up for consideration analogously.
2. We recorded the request of the appellant to the effect that the appellant does not wish to proceed with the appeal on April 23, 2024. Appellant and the revisional applicant are one and the same person.
3. The revisional applicant assails an order No.55 dated March 4, 2024 passed in Special Case No.5 of 2017 arising out of Dum Dum Police Station

Case No.1142 of 2016 dated November 25, 2016.

4. By the impugned order, the learned Court was pleased to find that the revisional applicant was absent on a number of occasions. Learned Judge noted that since June 3, 2022 till the date of the impugned order, the revisional applicant did not care to appear on five occasions. Learned Judge proceeded to cancel the bail and issued warrant against him. Learned Judge was pleased to reject the application under Section 205 of the Criminal Procedure Code filed on behalf of the revisional applicant. Learned Judge was also pleased to issue non-bailable warrant of arrest against the revisional applicant immediately and directed commencement of proceeding under Section 446 of the Criminal Procedure Code against his surety.
5. Learned Advocate appearing for the revisional applicant submits that, henceforth the revisional applicant will appear before the jurisdictional Court on every date fixed by the Court. He seeks leave to apply under Section 205 of the Criminal Procedure Code or under Section 317 thereof, as the case may be, after his client is physically present in Court. He submits that, such application may be decided on merits.
6. In the facts and circumstances of the present case, the revisional applicant was found to be

absent on at least five days. Learned Court is not required to allow an application under Section 205 of the Criminal Procedure Code mechanically. Learned Judge gave adequate reasons for not accepting the plea under Section 205 and correctly proceeded against the revisional applicant as appearing in the impugned order.

7. Since the revisional applicant is offering to be present on every dates fixed by the jurisdictional Court, we deem it appropriate to accept the request of the revisional applicant. Revisional applicant will appear every day, physically, before the jurisdictional Court. He is at liberty to apply under Section 205 or 317 of the Criminal Procedure Code, as the case may be, after he is physically present before the jurisdictional Court. Obviously, the Court will consider such application in accordance with law.
8. So far as the non-bailable warrant of arrest issued as against the revisional applicant is concerned, we do not find that the learned jurisdictional Court acted with material irregularity so as to require our interference. However, the revisional applicant is at liberty to surrender before the learned jurisdictional Court and apply for bail which no doubt again will be considered in accordance with law by the jurisdictional Court.
9. Learned Advocate appearing for the revisional

applicant draws the attention of the Court to the order dated May 19, 2017 passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.4072 of 2017 and submits that, the revisional applicant was granted bail by the Hon'ble Supreme Court. One of the conditions of the grant of bail with regard to the surrender of the passport was subsequently modified on October 23, 2017. He submits that, the jurisdictional Court may consider the grant of bail by the Hon'ble Supreme Court while considering the application for grant of bail afresh by the revisional applicant.

10. No doubt, the learned jurisdictional Court will take into consideration every aspect of the matter including the orders passed by the Hon'ble Supreme Court granting bail to the revisional applicant while considering the application for grant of bail filed afresh by the petitioner pursuant to the impugned order.
11. So far as the compliance under Section 207 of the Code of Criminal Procedure is concerned, learned Advocate appearing for the State submits that, the learned Public Prosecutor will place the list of documents that the prosecution seeks to rely upon at the trial as also the documents that were collected by the prosecution during investigation and will not be relied upon by the prosecution at

the trial.

12. Upon such list of documents so furnished by the learned Public Prosecutor, revisional applicant is at liberty to identify the documents that the revisional applicant requires. The jurisdictional Court will, no doubt, consider such request in accordance with law.
13. In view of the appellant not willing to proceed with **MAT 1109 of 2018**, the same is dismissed as not pressed.
14. **CRR 1107 of 2024** is disposed of on the observations made hereinbefore.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)