

10.04.2024
tkm/ct 28
sl no.77

C.R.M. (DB) 1068 of 2024

In Re : An application under section 439(2) of the Code of Criminal Procedure

And

In Re : Subhas Mandi petitioner

Ms. M Gomes

..... for the petitioner

1. Order dated 4.8.2023 granting bail to opposite party has been assailed.

2. Bail order has been assailed on two scores. Firstly, it is contended that the learned judge did not consider the gravity of offence; secondly it is alleged that the opposite party has misused his liberty and is threatening witnesses.

3. On the first score, we note the learned judge considered the profile of the case. He noted that the opposite party was drunk and had not made any effort to escape. These circumstances weighed with the learned judge to come to a conclusion that the act of opposite party was not a premeditated one. He also considered the period of detention suffered by opposite party. Hence, we are not inclined to interfere with the order granting bail on merits.

4. On the score of misuse of liberty we are of the opinion the learned judge who granted bail is best suited to examine the issue. It is open to the petitioner to agitate this issue before the learned judge and in the event application for cancellation of bail on such score is filed before the learned judge, the latter shall consider the same in accordance with law and preferably within

60 days from the date of institution of the said proceeding after due notice to the opposite party.

5. With these observations application for cancellation of bail is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)