

23.04.2024
Serial no. 110
[G.S.D]

CRR 1473 of 2024

In the matter of : Avijit Mondal @ Abhijit Mondal
... .. Petitioners

Mr. Rajdeep Mazumder
Mr. Moyukh Mukherjee
Mr. Sayantan Sinha
Ms. Sagnika Banerjee
Mr. Souvik Palodhi

... for the petitioner

Mr. Rudradipta Nandy
Mr. Arijit Ganguly
Ms. Sanjana Saha

... for the State

Mr. Rachit Lakhmani
Ms. Shayana Singhal

... for the defacto-complainant

Mr. Mazumder, Id. Advocate for the petitioner, has taken a strong objection to the order dated 16.3.2024 passed by the Id. Addl. Sessions Judge, 5th Court, Burdwan in connection with Sessions Case No. 206 of 2023 which arose out of Shaktigarh P.S. Case No. 86 of 2023 dt. 1.4.2023.

There were series of prayers advanced before the Id. Sessions Court in connection with the instant case. However, before this Court Mr. Nandy, Id. Advocate for the State, has restricted his prayer to the extent that the investigating agency would compare the voice call of the present petitioner already available in an extracted audio clip of a mobile number being 9093337777.

Mr. Mazumder submits that such mobile phone was in the custody of the investigating agency since the inception of the petitioner being arrested on 18th of April, 2023 and the petitioner has very recently been granted bail on 9th of March, 2024.

According to the Id. Advocate appearing on behalf of the petitioner, the same is a ploy of the investigating agency to create circumstances prejudicial after the petitioner was granted bail in connection with the instant case by the Hon'ble Division Bench, as such, the prayer was advanced by the investigating agency on 12th of March, 2024.

It is reiterated that the prayer so made by the investigating agency for comparison of the voice with another mobile phone, which, according to the Id. Advocate appearing for the petitioner, was deprecated by the Hon'ble Division Bench while passing the bail order as the chain of circumstances were not established by the investigating agency so far as the documents which were placed before the Hon'ble Division Bench is concerned.

The Id. Advocate for the petitioner and the Id. Advocate for the State has elaborately argued regarding the background of the case, which need not be commented upon as the investigation of the case is still in progress and the investigating agency or the prosecution now has restricted its prayer to the extent of the voice sample of the petitioner

which has already been taken by the investigating agency with the voice call which they intend to compare and is available in the extracted audio clip of the Mobile Number being 909333777.

So far as the prayer of the investigating agency is concerned, to this extent, the same is **allowed**.

The rest of the prayers are not considered by this court, at this stage, and the investigating agency, if so warrants, would make fresh prayer before the Id. Trial court or the court *in seisin* of the matter and the petitioner will have the right to resist such submission as and when the same is considered by the Id. Trial court or the court *in seisin* of the matter.

With the aforesaid observations, CRR 1473 of 2024 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)