

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 1808 of 2023

In Re: - An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure, 1973 arising out of Madhyamgram P.S. Case No. 28/2023 dated 12.01.2023 u/s. 306/34 of the Indian Penal Code.
And

In the matter of: - **Shibani Ghosh**

...petitioner/ *de facto* complainant.

Mr. Kamalesh Chandra Saha
Mr. Samannya Saha
Mr. Mishuk Saha

...for the petitioner/ *de facto* complainant.

Mr. Saryati Datta
Mr. Sanjib Kr. Dan
Mr. Chitrak Biswas

...for the State/opposite parties.

Dictated by Arijit Banerjee, J.

1. This application has been taken out by the *de facto* complainant for cancellation of the bail order that was granted in favour of the Opposite Party (OP) No.2 on April 6, 2023, by the learned District Judge, North 24-Parganas.
2. Learned Advocate for the petitioner/*de facto* complainant says that the learned Trial Court did not consider the materials on record prior to granting bail to the accused/OP No.2. Secondly, the post bail conduct of the OP No.2 would demonstrate that his bail should be cancelled. The OP No.2 threatened and continues to threaten the petitioner/*de facto* complainant with dire consequences. The OP No.2 even beat

up the petitioner/*de facto* complainant inflicting injuries on her. The petitioner/*de facto* complainant made two representations to the concerned Police Station but the same did not receive the attention of the Police authorities. The petitioner/*de facto* complainant is living in perpetual fear of being harmed by the OP No.2. It was a condition of bail that the accused will reside outside the jurisdiction of Madhyamgram Police Station, where the petitioner/*de facto* complainant resides. The accused has violated that condition of bail also.

3. We have also heard learned Advocates for the State and the OP No.2.
4. We find that by an order dated December 5, 2023, the learned Sessions Judge, North 24-Parganas, relaxed the conditions of bail by allowing the accused to enter the jurisdiction of Madhyamgram Police Station, upon finding that the accused had adhered to the conditions of bail all throughout.
5. We do not find any material on record to support any of the submissions made by learned Advocate for the petitioner/*de facto* complainant. There is no evidence also which would show that the representations allegedly made by the petitioner/*de facto* complainant to the concerned Police Station, were in fact, received by the Police. There is nothing to show that the petitioner/*de facto* complainant sustained injuries because of alleged assault by the OP No.2

6. We do not find any ground to cancel the bail that has been granted by the learned Trial Court. The initial order granting bail as also the order relaxing the conditions of bail are quite reasonable and informed. It is established law that a bail order is not to be cancelled lightly. We do not find that the accused has misused the liberty of bail in any manner.
7. In the result, this application fails and is dismissed.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)