

Item No.19
Ct.No.34
dc.

C.R.M. (SB) 113 of 2023

In Re : An Application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure, 1973.

And

In Re : **Ranu Mondal** ... Petitioner.

Md. Sabir Ahmed,
Md. Kutubuddin,
Ms. Suman Biswas,
Mr. Tasnim Ahmed,
Mr. Dhiman Banerjee

... For the Petitioner.

Md. Anwar Hossain,
Ms. Manisha Sharma ... For the State.

Mr. Rajdeep Mazumder,
Mr. Moyukh Mukherjee,
Mr. Pritam Roy,
Mr. Abhijit Roy,
Ms. Sagnika Banerjee ... For the Opposite Party No.2.

The application for cancellation of bail has been preferred challenging the order dated 02.05.2023 passed by learned Additional Chief Judicial Magistrate, Chanchal, Malda in connection with Ratua Police Station Case No. 192 of 2023 dated 17.04.2023 under Sections 406/420 of the Indian Penal Code.

Mr. Sabir Ahmed, learned advocate appearing for the petitioner has vehemently opposed and addressed on the perversity of the order dated 02.05.2023 in respect of the bail granted to the opposite party no.2. According to the learned advocate, only notice under Section 41A of the Code of Criminal Procedure was issued which weighed with the learned court while granting bail and neither the case diary was consulted and surprisingly the learned APP raised no objection.

I do not find from the order also that the investigating officer at all was informed at the stage when the investigation was in progress. It was incumbent upon the learned Additional Chief Judicial Magistrate, Chanchal, Malda to at least inform the public prosecutor that whether on instructions, he is raising no objection or he is ventilating his personal views without the instructions of his client. However, I find that subsequently charge-sheet has been submitted in connection with the instant case. Although I am not satisfied with the order dated 02.05.2023 passed by the learned Additional Chief Judicial Magistrate, Chanchal, Malda, but in view of the changed circumstances, I am of the opinion that at this stage, it would not be prudent to cancel the bail and send the person back to jail as the learned advocate for the State on being instructed by the investigating officer submits that at this stage, the State do not have any reason to take the opposite party no.2 in custody.

Consequently, the application for cancellation of bail being CRM (SB) 113 of 2023 is disposed of with the direction that the opposite party no.2 shall be physically present on each and every date so fixed by the learned trial court and will not seek any accommodation or create any fetter in the progress of the trial of the case.

As the investigating officer of the case is present in Court, his further appearance before this Court is dispensed with.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)