

03.09.2024
Court No.29
Item No. 161

sg

CRM (DB) 2764 of 2024

In Re:- An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure read with Section 483(3) of the BNSS.

And

In Re: **Prasanta Gayen alias Prasanta Kumar Gayen**
Petitioner

Mr. Mayukh Mukherjee
Ms. Aishwary Bajaj
Ms. Sagnika Banerjee

For the petitioner

1. The learned Counsel for the petitioner has prayed for cancellation of the bail on the self-same ground on which a writ petition was filed being WPA 25510 of 2024 (Radharani Gayen vs. State of West Bengal & Ors.). It was disposed of by an order dated 15th May, 2024. It is not in dispute that all the grounds stated in the present petition have been the subject matter of the writ petition in which, after hearing the parties, Justice Jay Sengupta has passed inter alia the following order:

“Learned senior standing counsel for the State relies on the report and the two case diaries and submits as follows. Even before the writ petition was filed, the investigating agency after getting copies of injury reports in the case started by the petitioner has prayed for passing necessary orders by the learned Magistrate to reopen the case for further investigation. Earlier, such medical documents were not made available either by the petitioner or by the hospital concerned.

It appears that the prayer was made before the learned Magistrate on 30.8.2023, but no steps have been taken by the Investigating Officer after that.

The Investigating Agency is always at liberty to start further investigation only after intimating the learned Court concerned.

It has also not explained as to why the investigating officer did not give more effort in getting the medical documents, if not from the petitioner then atleast from the hospital.

It is also an admitted position that till date, no arrest has been made in the case started by the petitioner.

Therefore, let the Baruipur P.S. Case being 1664 of 22.10.22 be further investigated by the C.I.D. forthwith. Necessary intimation be given by way of a prayer before the learned Magistrate.”

2. Moreover, we have carefully read the order of the learned Sessions Judge and it appears from the said order that, after taking into consideration of all relevant facts, the prayer for anticipatory bail was allowed by a reasoned order.
3. In view of the aforesaid, the case for cancellation of bail has not been made out and accordingly stands dismissed.

(Soumen Sen, J.)

(Shampa Dutt (Paul), J.)