

01.04.2024
Sl. No.82
akd

C. R. M. (DB) 4218 of 2022

In Re : An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure filed on 24.11.2022 :

A N D

In Re : Selim Sk.

... Petitioner

Md. Sabir Ahmed
Md. Golam Karim Choudhury
Mr. Tasnim Ahmed
Mr. Dhiman Banerjee
Ms. Suman Biswas

... .. for the petitioner

Mr. Kallol Mondal
Mr. Krishan Ray
Mr. Souvik Das

... .. for opposite party nos.2 to 4

Mr. Bibaswan Bhattacharya
Mr. Asif Dewan

... .. for the State

1. Order dated 16.09.2020 granting bail to opposite party nos.2 to 4 has been assailed.
2. It is submitted on behalf of the petitioner that the court failed to consider the gravity of the accusation and was swayed by the submission of the opposite party nos.2 to 4/accused that the victim suffered injury due to fall on a wooden log. After being released on bail, opposite party nos.2 to 4 have threatened the petitioner on a number of occasions. Hence, bail granted to opposite party nos.2 to 4 may be cancelled.
3. Learned Advocate for the State submits bail prayers of co-accused viz. Dalim Sk., Jane Alam Sk. @ Janai, Jakir Mondal and others were rejected by various coordinate Benches of this court.

4. Learned Advocate for the opposite party nos.2 to 4 submits bail was granted in September, 2020. Learned Judge had considered the case diary and materials on record and thereafter released opposite party nos.2 to 4 on bail. Allegations of misuse of liberty are figments of imagination and relate to complaints made in 2020. However, the bail order has been challenged in 2022.
5. We have considered the materials on record. Opposite party nos.2 to 4 were released on bail in September, 2020. Bail order was initially challenged in 2020 but came to be dismissed as the documents annexed to the application were illegible. Liberty was given to file afresh. Accordingly, petitioner filed the present application in 2022.
6. We have perused the impugned order. The order shows that the learned Judge has considered the submissions of the respective parties, gone through the materials on record including the case diary and released opposite party nos.2 to 4 on bail. The said order has been passed in 2020. Four years have lapsed since then.
7. Under such circumstances, we are not inclined to substitute the discretion of the trial Judge to grant bail to opposite party nos.2 to 4.
8. It is strenuously argued that bail prayer of co-accused had been rejected by various coordinate Benches of this court.
9. Parameters of rejection of bail are different from those governing cancellation of bail. Hence, we are not persuaded by this submission also.
10. On the score of misuse of liberty we have gone through the documents annexed to the application. All the complaints pertain to 2020 and the allegations of misuse of liberty are general and omnibus. No contemporaneous complaint with regard to misuse of

liberty is placed on record. Hence, no convincing case of misuse of liberty justifying cancellation of bail is made out.

11. However, to instil confidence in the minds of the petitioner and his witnesses, we propose to restrict the movement of opposite party nos. 2 to 4. In addition to the conditions of bail imposed upon them, the said opposite party nos. 2 to 4, while on bail, shall not enter the jurisdiction of Ausgram Police Station and shall provide the address where they shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge of the police station concerned within whose jurisdiction they shall presently reside once in a week until further orders.

12. CRM (DB) 4218 of 2022 is accordingly, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)