

05.04.2024

Item No.31

Ct.No.34

dc.

C.R.M. (SB) 216 of 2023

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

And

In Re : **Snigdha Roy nee Ghosh** ... Petitioner.

Mr. Abhijit Ganguly,
Mr. Ayan Pramanik ... For the Petitioner.

Ms. Puspita Saha ... For the State.

Report dated 05.04.2024 submitted by the learned advocate appearing for the State be kept with the record.

The said report reflects that in spite of the best efforts, the concerned officer of Sonarpur Police Station could not trace out the opposite party viz. Indranil Roy.

Mr. Ganguly, learned advocate appearing for the petitioner/*de facto* complainant drew the attention of the Court to the order dated 22.09.2023. The learned advocate has also drawn the attention of the Court to the order dated 28.04.2022 passed in CRM(A) 1931 of 2022, the order dated 22.11.2022 passed in CRM(DB) 2402 of 2022 and the orders passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) Nos. 12192-12193/2022 dated 15.12.2022 and 21.09.2023.

The Hon'ble Supreme Court was pleased to take into account the fact that the submission which was advanced that the *de facto* complainant filed an application seeking cancellation of bail and the Hon'ble Supreme Court on appreciation of the same, directed the learned Magistrate to

consider the same. Accordingly, the observation of the learned Judicial Magistrate, Baruipur in seisin of G.R. Case No. 3935 of 2021 (arising out of Sonarpur Police Station Case No. 510 of 2021) i.e. “*in the instant case, this Court is of the view that since the bail has been granted by the Ld. Court of ACJM, Baruipur, therefore, this Court is of the view that this Court does not have jurisdiction to cancel the said bail*” is set aside.

As the Hon’ble Supreme Court has left it to the Court having jurisdiction, consequently the learned Judicial Magistrate, Baruipur is authorised and empowered to consider the application for cancellation of bail filed at the instance of the *de facto* complainant/petitioner on merits.

Another aspect would be considered by the learned Judicial Magistrate, Baruipur is that the address which has been furnished in the bond may not be sufficient or correct as the police authorities in spite of their best efforts could not trace out the present petitioner for which Sonarpur P.S. G.D.E. No. 2392 dated 25.03.2024, G.D.E. No. 2705 dated 28.03.2024 and G.D.E. No. 2705 dated 04.04.2024 have been registered.

If the petitioner draws the attention of the learned Judicial Magistrate, Baruipur in respect of this order, the learned Magistrate on merits and on the issues which have been stated above would reconsider the application for cancellation of bail which has been filed earlier before the said court.

With the aforesaid observations, the application being CRM (SB) 216 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

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.)