

20.02.2024

COURT : 01
ITEM : 02
MATTER : 439(2)
STATUS : Modified
BENCH-ID : 1370
TRANSCRIBER : NANDY

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

CRM (DB) 11 of 2024

Alimul Hoque
Vs.
The State of West Bengal & Ors.

In Re:- An application for **cancellation of bail** under **Section 439 (2)** of the Code of Criminal Procedure.

Mr. Jaydip Kanta Bhowmik, Advocate
Mr. Subham Kumr, Advocate
Mr. Sayantan Bhowmik, Advocate
Ms. Rikta Sarkar, Advocate

.....for the Petitioner

Mr. Aditi Shankar Chakraborty, Learned A.P.P.
Mr. Ujjwal Luksom, Advocate
Mr. Subhasis Mishra, Advocate

.....for the State

Mr. Sandeep Dutta, Advocate
Mr. Anirban Banerjee, Advocate

.....for the Respondent Nos. 2 & 3

1. This is an application for cancellation, of bail granted by the Sessions Judge, Jalpaiguri-in-charge on 12.12.2023 in Criminal Misc. Case No. 2160 of 2023 on the premise that after the registration of the case and the accused persons being released on bail in the Trial Court, they have inflicted assault on the petitioner and his family members in order to create pressure to withdraw the instant case.
2. On the basis of the subsequent complaint lodged by the petitioner, a case was registered against the respondent nos. 2 & 3 herein and we directed the State to produce the case diary of the subsequent case.
3. We have gone through statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure in connection with Malbazar Police Station Case No. 1022 of 2023 registered on 17.12.2023 under Sections 341/307/511/506/34 of the Indian Penal Code and we feel that if the order granting bail, is modified

to an extent to ensure the safety of the *de facto* complainant of the instant case, the same would sub-serve justice. Furthermore, after perusing the facts discerned from the FIR registered in connection with the instant case, the Trial Court was of the view that custodial interrogation of the aforesaid respondents is not necessary. It further discerned from the record that the minor girl of the petitioner committed suicide after a long conversation over telephone with the respondents.

4. Obviously, the case is required to be tried on the basis of evidence adduced in this regard and, therefore, we do not find any infirmity in the order of the Sessions Judge-in-charge, Jalpaiguri.
5. Considering the petitioner alleged interference and/or intimidation by creating pressure to withdraw the aforesaid case, we feel that the respondents should not be permitted to enter a space surrounding the residence of the petitioner by 100 meters and the police authority shall ensure strict compliance in this regard.
6. The Counsel for the respondents assures that Court that his client would not violate such condition nor ever violated the same and the subsequent case has been initiated in order to create pressure upon the prosecution.
7. Be that as it may, we do not venture to enter into the aforesaid aspect and, therefore, modify the order of the Sessions Judge-in-charge to the extent that the respondent nos. 2 & 3, shall not enter within 100 metres surrounding the house of the petitioner until the disposal of the case.
8. With these observations, the application for cancellation of bail being **CRM (DB) 11 of 2024** is **disposed of**. No order as to costs.

(Harish Tandon, J)

(Supratim Bhattacharya, J)