

July 10, 2025

6 Arsad(ARCR)

**IN THE HIGH COURT AT CALCUTTA
IN THE CIRCUIT BENCH AT JALPAIGURI**

CRM(DB)/240/2024

In Re : An Application for under Section 439(2) of Cr. P.C. 1973.

And

In Re : Sourav Majumdar... Petitioner

Mr. Sayan De,
Ms. Esha Acharya,
Mr. Rimik Chakraborty,

... For the petitioner.

Mr. Joydeep Kunta Bhowmik,
Mr. Sayantan Bhowmik,
Mr. Shubham Kumar,
Ms. Sayantani Das,

...for the opposite party no.2

Mr. Aditi Shankar Chakraborty,
Mr. Sourav Ganguly,

...for the state

This is an application seeking cancellation of bail. It is submitted on behalf of the petitioner/ *de facto* complainant that the opposite parties were enlarged on bail by the Jurisdictional Court by an order dated April 08, 2024 without considering the materials in the case diary. Learned advocate for the petitioner relies upon the statement of the landlord of the petitioners recorded under Section 164 of the Code of Criminal Procedure, who was an eyewitness. She also relies upon the dying declaration of the victim recorded in connection with the incident at North Bengal Medical College and Hospital. Learned advocate for the petitioner also submits that charge sheet was filed under Section 498A/ 326/307/120B/304/304B of the Indian Penal Code read with Section 3/4 of the Dowry Prohibition Act.

It is submitted that charge sheet ought to have been submitted under Section 302 of the Indian Penal Code by the investigating officer. For such reason, the petitioner has approached the Jurisdictional Court by a protest petition which is yet to be decided by the learned Court.

State is represented.

Learned advocate for the opposite party submits that there is no report that the petitioner has ever misused the privilege of bail extended to them and as such, their bail should not be cancelled. The bail was granted far back on April 08, 2024 and since then, they are abiding by the conditions of the order granting bail.

Having heard learned advocate for the parties, it appears that the opposite parties were enlarged on bail by an order dated April 08, 2024. More than one year has elapsed since then. Admittedly, there is no report with regard to misuse of the privilege of bail granted to the petitioner. It is obvious that the protest petition filed on behalf of the petitioner/ *de facto* complainant shall be considered by learned Jurisdictional Court at the time of framing of charges against the accused persons for which the case is presently fixed.

It is a trite law that the privilege of bail once extended should not be cancelled or interfered with as a matter of course unless compelling circumstances justify such cancellation

In such circumstances, I am not inclined to cancel the bail granted to the opposite party no. 2 vide order dated April 08, 2024 by the Jurisdictional Court.

Application for cancellation of bail is rejected.

Accordingly, CRM(DB)/240/2024 is dismissed.

(Md. Shabbar Rashidi, J.)