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Ct.29

CRR 4680 of 2025

31.03.2026

Bd.

Ainal Hoque
-vs-
The State of West Bengal

Mr. Mritunjoy Chatterjee ... for the petitioner.

Mr. Suman De
Mr. Sharequl Haque ... for the State.

Petitioner herein has assailed the order dated 24.09.2025 passed by learned Additional Sessions Judge First Court, Lalbagh, Murshidabad by which the court below had cancelled the interim bail granted to the petitioner on 16.09.2025 in G.R. Case no. 4171 of 2025, by Learned Additional Chief Judicial Magistrate, Lalbagh, Murshidabad

Mr. Dey learned counsel appearing on behalf of the State agreeing the submission made on behalf of the petitioner that the application of cancellation of bail could have been preferred before the court who has granted interim bail, submits that State may be given further opportunity to make a prayer for cancellation of bail before the concerned Magistrate.

Having heard learned counsel for both the parties it appears that by the impugned order interim bail was granted to the petitioner fixing 17.01.2026 for appearance. Therefore, the life of the bail order granted by the concerned Magistrate was only up to that date and the State could have opposed the prayer for extension of the said interim bail on the date fixed before the Magistrate, who had granted bail.

Section 480 (5) of BNSS gives power to the Magistrate to cancel a bail order which reads as follows:-

(5)Any Court which has released a person on bail under sub-section (1) or sub-section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

Similarly section 483 sub-section (3) of BNSS provides the same power to the High Court and court of Sessions, which runs as follows:-

A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

Therefore, both section 480(5) and section 483 (3) of BNSS gives the respective Courts the power to cancel the order granting bail in appropriate cases.

Criminal proceedings follow a structured tiered system established by the different provisions of BNSS. Ideally in such a circumstance, especially when interim bail was granted, the prayer for cancellation of bail should be made before the Court at first instance, so that neither party may lose a Forum.

Therefore, without going into the merits or demerits of the order impugned passed by the sessions judge dated 24.09.2025, present Application is disposed of, as agreed by learned counsel appearing for the State, by giving liberty to the State to make a fresh prayer before the learned Additional Chief Judicial Magistrate, Lalbagh, Murshidabad, within a period of two weeks from date and in the event of filing such application for cancellation of bail by the State, the concerned Magistrate will dispose of such prayer, after hearing all the parties without being influenced by the observation dated 24.9.2025, made by learned

Additional Sessions Judge, 1st court Lalbagh, Murshidabad in criminal Misc. Case no. 60 of 2025 or any observation made by this High Court, preferably within a period of two weeks thereafter. The order impugned dated 24.09.2025 and the subsequent order passed by the concerned Magistrate dated 25.09.2025 are hereby set aside.

CRR 4680 of 2025 thus stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)