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C.R.M. (SB) 143 of 2024

In Re: An application for cancellation of bail under Section 480(5) & Section 483(3) of the Bhartiya Nagarik Suraksha Sanhita, 2023;

Marfat Sekh @ Marfat Sk. & Anr.
Versus
The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee
Mr. Sourav Pal
Ms. Babita Pramanik.
...for the petitioners.

Mr. Bidyut Kr. Ray
Ms. Baishakhi Chatterjee.
...for the State.

Learned advocate appearing for the petitioners submits that the accused/opposite party nos. 2 to 5 are of dangerous character and over the issue relating to property had been physically assaulting the members of the family of the present petitioners.

Learned advocate for the State has produced the case diary.

I have taken into account the statement of the witnesses as well as the injury report which is available. I also find that on conclusion of investigation, charge-sheet has been submitted. On an assessment of the order passed by the learned ACJM, Alipore dated 23.09.2024, I am of the opinion that the learned court took into account the relevant circumstances available. However, I find that the case diary was not made available and a confirmed bail was

granted to the accused/opposite parties.

The case was under Section 109 of the BNS. It was the duty of the learned Magistrate to have fixed a date for production of the case diary before consideration of bail. This approach of the learned Magistrate in an alleged sessions triable offence of granting bail without consideration of the case diary is not acceptable to this Court. However, having considered the materials in the case diary so far as the applicability of the sections are concerned, this Court also finds that the end results arrived at by the learned Magistrate do not call for any interference.

Accordingly, I am of the opinion that at this belated stage after one year five months, it would not be wise to interfere with the order of bail granted by the learned Magistrate on 23.09.2024 taking into account the materials available in the case diary and that charge-sheet was filed earlier prior to the accused/opposite parties appearing and surrendering before the learned Magistrate. However, in course of the trial, if there are circumstances which calls for interference, learned Magistrate or the jurisdictional court would be at liberty to exhaust the process of law and/or impose conditions, if there are issues which inspire the confidence regarding the impediments for the progress of the case.

With the aforesaid observations, CRM(SB) 143 of 2024 is disposed of.

Report submitted by the State be kept with the record.

Case diary be returned to the learned advocate appearing for the State.

All 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 of all requisite formalities.

(Tirthankar Ghosh, J.)