

C.R. Case no. 33 of 2023
Reg. No. 30 of 2023

Order No. 02
Dated 28.11.23

Today is fixed for production.

Accused Ram Gazmer is produced from judicial custody.

The Ld. defence lawyer has filed a bail petition on behalf of the accused.

Learned Advocate for the accused person submits before the Court that neither any notice u/s 41A of the Cr.P.C. has been served upon the accused person nor any check-list has been submitted by the officer concerned. Further, submits that the accused has been falsely implicated in this case. Hence, prays for bail.

Learned APP raises no objection.

Hearing both the parties and on perusal of the case record, it appears that the mandatory notice u/s 41A of the Cr.P.C. has not been served upon the accused person. Further, no check-list has been submitted by the E.O. mentioning reasons wherein the custodial detention of the accused person is necessary.

Therefore, in the above facts and circumstances, I am inclined to release the accused on *interim* bail keeping into consideration the judgement of the Hon'ble Apex Court with respect to the mandatory provision relating to the notice u/s 41A of the Cr.P.C.

The E.O. is directed to personal appearance before this Court and give a written explanation for his failure to abide by the Hon'ble Apex Court's order regarding the notice/ check-list u/s 41A of the Cr.P.C.

Accordingly, the accused Ram Gazmer, may find A/I bail on furnishing bond of Rs..1000/- with one registered surety with condition to appear before the E.O. once a week until further order, i.d. to JC.

If on bail, to **13.12.2023** for appearance of the accused person and personal appearance of the E.O.

D & C by me

Sd/-

Chief Judicial Magistrate-I/C,
Darjeeling

Sd/-

Chief Judicial Magistrate-I/C,
Darjeeling