C- 13289/23 (R.a- 172/23)
CNR-WBHW050001762023

07.
19.03.2024
Record is put up today.
One accused person namely Deepanjan Nandi is brought under arrest and produced before this court by RPF/Personnels.
The accused person is taken into custody.
At this stage, Ld. Advocate for the accused person Deepanjan Nandi, files a petition supported by a vokalatnama praying for bail.
It is reported that the said accused person is engaged in offence punishable u/s.143 of Railways Act,1989.
Perused the forwarding report, memo of arrest, personal search, medical report and statement of the accused persons in custody.
Hd. Considered.
Scanning of the case record shows that the allegation against the accused person is bailable in nature (in view of observations made by the Hon'ble Calcutta High Court's order passed in c/w CRM (A) 3410 of 2022 , order dt.25-07-2022) and for the same the accused person may not be detained in custody. Considering nature of alleged offence this Court is of opinion that detention of accused person is not required.
Bail prayer stands allowed.
Accordingly the accused persons namely Deepanjan Nandi may find bail of Rs. 1000/- with one surety of like amount i.d. to J/C till 02.04.2024.
If on bail to 18.04.2024 for appearance if on bail and P/R.
Later
19.03.2024
One bail bond of Rs.1000/- furnished by surety namely, Nemai Debnath on behalf of the accused person namely Deepanjan Nandi and the same be found fit and accepted.
Let the petition and bail bond be kept with the record.
To date.
Later
On perusal of the case record it appears that the accused was arrested without being served with a notice under Sec. 41A Cr PC or no reason has been assigned for his immediate arrest. Moreover, along with arrest related documents, no check list has been forwarded in complience with Arnesh Kumar judgement.
Here, EO without without complience of mandatory directions of law as pronounced by the Hon'ble Supreme Court of India in that judgement or without assigining any cogent reasons arrested the accused and produced to this Court. From the documents forwarded alongwith the accused this Court finds itself in complete dark as to why the EO felt immediate necessity for arresting the accused without following sec. 41A Cr PC.
It is further surprising that the Post Commander/RPF Post/Bally has forwarded the accused to this Court without taking into account all this facts and failure of his subordinate officer. He did not bother to comply the mandate of law. He action is sufficient to show negligence and racklessness for following the directions of law.

All the facts and circumstances clearly suggests that teh EO of this case has grossly violated all the directions of the Hon'ble Supreme Court of India, pronounced in Arnesh Kumar judgement subsquently in a case reported in MD. ASFAK ALAM vs. THE STATE OF JHARKHAND & ANR. [CRIMINAL APPEAL NO(S). 2207 OF 2023] .

In this situation considering gross negligent activities of the EO as well as by the Post Commander/RPF Post/Bally, this Court is directing both of them to submit their explanation in writing as to why appropriate action shall not be taken against them for violating mandatory directions of law.
The EO and the Post Commander/RPF Post/Bally both are directed to submit their explanation to this Court within 07 days from date of this order.

Let a copy of this order be sent to the Post Commander/RPF Post/Bally for his information and necessary communication to his subordinate officer i.e. the EO of this case.

Fix 27.03.2024 for explanation by the EO and the Post Commander/RPF Post/Bally.

Sd/
Sourabh Nandi(JOCODE WB01263)
Judicial magistrate, Railway Court
Howrah.

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Judicial magistrate, Railway Court
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