

Presided over by: Subhra Som Ghosal
J.O Code No: WB00984
CNR No: WBSP01-015553-2021
Special Case No: 50 of 2021

Order No. 16, dated: 29-01-2024.

The sole accused person arrayed in the charge-sheet is present by filing hazira.

The de facto complainant is also present by filing hazira and he has filed a separate application praying for cancellation of the bail granted to the accused person in this case.

As stipulated by the previous order today is fixed for hearing of the petition dated 30th November 2023. On-call Ld. Advocate for both the parties are found to be present. The Ld. Public Prosecutor-in-charge is present as well. Hence the case record is taken up for hearing of the petition as mentioned above.

On perusal of the case record it has transpired that on 30th November 2023 the accused person filed a petition praying for confirmation of the interim bail granted to the accused person by this court. As the regular P.O was on leave, such petition has been fixed for hearing on this day. The Ld. Advocate for the accused person supported the prayer and in resonance to the petition it was argued by the Ld. Advocate for the accused person that after culmination of the investigation, continuation of accused person on interim bail will serve no purpose at all and for that reason the interim bail granted to the accused person may be confirmed by this court and the conditions imposed by the court may be waived and/or relaxed.

The prayer was vehemently opposed by the Ld. Advocate de facto complainant. It was submitted by the Ld. Advocate for the de facto complainant that the accused person has acted in violation to the conditions imposed by this Court and for that reason the de facto complainant has already ventilated his prayer for cancellation of the bail granted to the accused person and if pending such application the interim bail of the accused person is confirmed, in that eventuality; the very purpose of filing the petition by the de facto complainant will be frustrated. Pinning reliance on such submission Ld. Advocate for the de facto complainant prayed for rejection of the prayer.

As a matter of fact the de facto complainant has already filed a petition praying for cancellation of the interim bail granted to the accused person. Such prayer should certainly undergo judicial scrutiny as per the modalities of law but an affirmation of the prayer will amount to curtailment of the accused person's liberty. Hence the canons of natural justice demands that she should be given a fair chance of participation and hearing before this court and if not done; that will certainly amount to interference with the right of the accused person to fair trial. The Hon'ble Supreme Court in ***Gurdev Singh & Anr. vs. State of Bihar & Anr. 2000 (4) Crimes 103*** has held that the accused must be given notice and opportunity of hearing before the bail granted to him is canceled.

Hence let the case be fixed for hearing 26-02-2024.

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As the CD is the reflection of the probe; the prosecution is directed to produce the CD on the date fixed.

Copy of the petition filed by the de facto complainant has already been served upon the Ld. Lawyer on record for the accused person.

Surety is directed to ensure appearance of the accused person on the next date. Inform surety.

Till disposal of the petition filed on this date i.e. the petition praying for cancellation of the interim bail granted to the accused person, the accused person shall continue to be on interim bail. The condition imposed by this Court as regards not to leave the jurisdiction of this Court is modified to the extent, that the accused person shall not leave the jurisdiction of the State of West Bengal without permission of this Court. The accused person is at liberty to file her written objection against the petition that has been filed today. The petition dated 30-11-2023 is disposed of accordingly.

Typed to the dictation directly;
corrected on the system.

Sd/-Subhra Som Ghosal
Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

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