

(2018) 04 CAL CK 0119

Calcutta High Court

Case No: C.R.M. 1730, 1788 of 2018

Imsupenla Ozukum

APPELLANT

Vs

State Of West Bengal

RESPONDENT

Date of Decision: April 23, 2018**Acts Referred:**

- Code of Criminal Procedure, 1973 - Section 164

Hon'ble Judges: RAVI KRISHAN KAPUR, J; JOYMALYA BAGCHI, J**Bench:** Division Bench**Advocate:** Krishnendu Mondal**Final Decision:** Disposed Of

Judgement

The petitioner who is the defacto complainant has assailed order dated 22.03.2018 granting interim bail to the accused persons in connection with the instant case. She complains that in spite of grave allegations of sexual exploitation of minors in a hotel, the Special Court illegally granted bail to the accused persons. It is also submitted that the accused persons are posing a threat to the safety and security of the survivors of crime and there is every likelihood that they voice would be silenced through intimidation. She, accordingly, prays for cancellation of their bail.

Pursuant to direction given by us on 03.04.2018, investigating officer served notices upon the accused persons directing them to be personally present in Court today. Report has been filed before this Court in that regard. In spite of notice opposite party nos. 2(xiv) Rajkumar Porel, 2(xv) Rafiq Laskar and 2(xvi) Prabir Manna are absent in Court today. No explanation is also forthcoming with regard to their absence. Other accused persons are

present in person.

Opposite party nos. 2(v) Mithu Saha and 2(xiii) Anup Kumar Manna (wrongly described as Arup Kumar Manna in the petition) submit that they are

major and had booked room in the said hotel out of their own free will. Investigating officer submits that investigation is at its nascent stage and

prayer has been made on behalf of the State in CRM 1788 of 2018 to cancel the bail of the accused persons as custodial interrogation is necessary for

progress of investigation. Accordingly, CRM 1788 of 2018 is also heard along with this case.

We have considered the submissions made on behalf of the parties. We note that the order impugned is an interim one and the next date of hearing

has been fixed before the court below on 24.04.2018. It is true that the allegations in the first information report, are grave and may require custodial

interrogation of the accused persons against whom materials exist for indulging in trafficking of women including minors of sexual exploitation.

Learned judge in spite of the gravity of the offence granted interim bail even prior to recording of statement of the victim girl Sampa Sarkar under

Section 164 Cr.P.C. Such conduct on the part of the learned judge in granting interim bail in post haste without examining the statement of victim girl

is not a prudent exercise of judicial discretion and is contrary to the interest of justice.

However, since the order is an interlocutory one and the matter is scheduled to come up for hearing tomorrow for confirmation of bail before the trial

judge we direct that the applications for cancellation of bail being CRM 1730 of 2018 and CRM 1788 of 2018 be sent down to the trial judge forthwith

and be considered by the trial judge along with prayer for confirmation of bail on behalf of the accused persons without being swayed by the

observations made by him in the order under challenge and in accordance with law.

Department is directed to forthwith send the records of CRM 1730 of 2018 and CRM 1788 of 2018 before the learned judge for necessary

consideration by tomorrow. Accused persons are directed to be personally present before the trial court tomorrow and on every date of hearing,

failing which the said court shall be at liberty to pass appropriate order in accordance with law. Trial judge is directed to consider the prayer for

confirmation of bail as well as the cancellation applications forthwith and dispose them as early as possible but not later than seven days from the date

of communication of this order and receipt of the records of the applications for cancellation of bail, as aforesaid.

Opposite parties/accused persons 2(xiv) Rajkumar Porel, 2(xv) Rafiq Laskar and 2(xvi) Prabir Manna are not present in spite of notice being served

upon them. Their conduct shows that they are evading the process of law and accordingly their interim bails are cancelled and trial court is directed to

issue warrant of arrest against them to ensure their attendance. Other opposite parties/accused persons who are present in Court except opposite

party nos. 2(v) Mithu Saha and 2(iv) Soma Dutta shall meet the investigating officer on every alternate date between 2p.m. to 4p.m. till the application

for cancellation of bail and their prayers for confirmations of bail are finally disposed of by the trial court. Opposite party nos. 2(v) Mithu Saha and

2(iv) Soma Dutta shall cooperate with investigation and offer themselves for interrogation as and when necessary. Both the applications are

transferred to the court of learned Special Court for hearing, as aforesaid, and in accordance with law.