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22.06.2020
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**CRM 4256 of 2020
(Via Video Conference)**

In re : An application under Section 439 of the Code of Criminal Procedure in connection with Burwan P.S. Case No. 33 of 2020 dated 28.01.2020 under Sections 489(B)/489(C) of the Indian Penal Code.

In the matter of : **Affiruddin Sk. @ Asabul Sk. @ Patai Sk.**
..... petitioner

Mr. Arindam Roy

.....for the petitioner

Mr. Swapan Banerjee

Mr. Protik Bose

..... for the State

The advocate-on-record for the petitioner undertakes to affirm and stamp the petition as per the Rules within 48 hours of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

It is alarming and shocking state of affairs that the member of the bar taking advantage of the matter being taken on a virtual platform filed the application for bail when being alive of the fact that an earlier application for bail in connection with the same offence and the same police station case number was directed to be listed before this Court after resumption of normalcy in its functioning.

The learned advocate for the petitioner took a lame excuse that because of non-issuance of a certificate of receiving the application, several applications were posted on the e-mail of the Registrar General and the present application is one of such instances and, therefore, he prays for withdrawal of the instant application.

We noticed that the earlier application being CRM 3244 of 2020 was taken up on 23rd April, 2020 and an order was passed that the said application would be listed for further hearing upon resumption of the normal business of the Court.

The learned advocate appearing for the petitioner in the present application in fact, appeared in the said application as well and,

therefore, was alive of the said order having passed by the Co-ordinate Bench. Despite having aware of such fact, the present bail application has again been filed taking advantage of the limited functioning of the Court and complete vigil over the filing, as the applications are being received through e-mail and the verification has been compromised to the great extent because of the difficulty in normal functioning of the Court due to COVID-19.

We had the occasion to look at the page containing affirmation statement and have no hesitation in our mind that this application was attempted to be filed some times in the month of May, 2020. Though the learned advocate for the State says that the said learned advocate is in a habit of filing the successive application even when the earlier applications are either disposed of or directed to be listed after normalcy is restored in the functioning of the Court, but we do not delve to go deep to such aspect in absence of any cogent and corroborative evidence. However, we are shocked to find that despite having aware of the earlier order, the same advocate-on-record has filed the instant application taking advantage of the disruption of the normal functioning of the Court. The present application bereft of any statement concerning the earlier application for bail as indicated above and the order passed therein rather there is a categorical statement that no prior application has been filed before this Court which would be evident from paragraph 1 thereof.

In the meantime, the Registry has disclosed that the present application was uploaded on the official e-mail on 28th May, 2020 nearly more than one month after the said order was passed in the earlier application. The member of the bar has not only the onerous duty to his client but have more responsible duty towards the Court. He cannot take the Court for a ride nor any attempt in this behalf can be compromised by the Bench. Such brazen attempt on the part of the

member of the bar would not only tarnish the image of the judiciary but would also percolate wrong signal to the litigants as well as the society. The same advocate-on-record who filed the earlier application for bail, filed the instant application even after appearing therein and being aware of the order passed by this Court which we feel would blemish the image of the Bar.

We, therefore, reject the said application with costs of Rs.50,000/- (Rupees Fifty Thousand) imposed upon the learned advocate-on-record of the present petitioner which shall be deposited with the State Legal Services Authorities within a month from date, failing which the State Legal Services Authorities shall proceed to recover the said amount by initiating a proceeding treating the same as debt under the Bengal Public Demands Recovery Act, 1913.

CRM 4256 of 2020 is rejected.

(Tirthankar Ghosh, J.)

(Harish Tandon, J.)