

Form J(1)

**IN THE HIGH COURT AT CALCUTTA  
Criminal Revisional Jurisdiction  
Appellate Side**

**Present :  
The Hon'ble Justice Bibek Chaudhuri**

**CRR 807 of 2023**

**Han Jun Wei @ Jun Wei Han  
Vs.  
State of West Bengal**

**For the petitioners : Mr. Salil Kumar Srivastava,  
Mr Pawan Kumar Gupta,  
Mr. Rahul Srivastava,  
Ms. Sofia Nesar,  
Mr. Santanu Sett**

**Judgement on : 15.03.2023.**

**Bibek Chaudhuri, J.**

In connection with Crime No. 0003/2021 under Sections 419/420/467/468/471/120B of the Indian Penal Code and Section 66D of the Information Technology Act, Police Station ATS Lucknow, the petitioner was granted bail by a Bench of Lucknow High Court upon certain conditions appended in the order dated 3<sup>rd</sup> February, 2023.

The petitioner is also involved in a case under Section 14A(b) of the Foreigners Act in connection with GR Case No. 3017/2021 pending before the learned Chief Judicial Magistrate

at Malda. On 12<sup>th</sup> August, 2021, the learned Chief Judicial Magistrate, Malda passed an order of bail on certain stringent conditions which is appearing in the order itself.

It is submitted on behalf of the petitioner that the petitioner is not in a position to comply with the condition imposed by the learned Chief Judicial Magistrate, Malda for bail and at the same time he is not in a position to carry out the direction made by the Lucknow High Court and is also not in a position to appear before the Trial Court in the case pending at Lucknow.

Considering the submission made by the learned Advocate for the petitioner this Court is of the opinion that the instant revision can be disposed of here and now with the assistance of the learned Public Prosecutor-in-Charge. Mr. Avik Ghatak, learned Advocate is requested to represent the State of West Bengal. The petitioner is directed to serve a copy of the application here and now. I have heard the learned Advocate for the petitioner as well as the learned Public Prosecutor-in-Charge. The instant revision is disposed of directing the learned Chief Judicial Magistrate at Malda to impose the conditions for bail taking into consideration the order passed by the Hon'ble Rajiv Singh, J. in Criminal Misc. Bail application 12165/2022 on 3<sup>rd</sup> February, 2023 and thereafter on 10<sup>th</sup> February, 2023.

Learned Chief Judicial Magistrate shall also consider that in criminal jurisprudence bail is the rule and jail is the exception. If the learned Magistrate considers that an accused is required to be released on bail and at the same time he is fettered with certain conditions which he cannot satisfy even to

the knowledge of the learned Chief Judicial Magistrate, such bail order is practically held to be granted not for the release of the accused but to confine him in custody.

With the above observation, the instant revision is disposed of.

**(Bibek Chaudhuri, J.)**

**Srimanta, A.R.(Ct.)**  
**Item No. 36.**