

04.04.2022
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Ct. No. 29
KAUSHIK
DISMISSED

C.R.M. (DB) 557 of 2022

In Re:- An application for cancellation of bail under
Section 439(2) of the Code of Criminal Procedure.

And

In Re : Sima Sen

..... petitioner

Mr. Pawan Kumar Gupta

Mr. Rameshwar Sinha

Ms. Sofia Naser

Mr. Santanu Sett

....for the petitioner

Mr. Arindam Jana

Mr. Sudipta Dasgupta

Mr. Bikram Banerjee

Mr. Arkadeb Biswas

....for the Opposite Party No. 1

Ms. Zareen N. Khan

Mr. Ashok Das

....for the State

Petitioner seeks cancellation of the bail granted by the
Jurisdictional Court by the order dated September 17, 2021.

Learned advocate appearing for the petitioner submits
that, the prayer for anticipatory bail was rejected by the Hon'ble
Court. Suppressing such fact, the private opposite parties
obtained the anticipatory bail from the Jurisdictional Court.

State and the private opposite parties are represented.

Learned advocate appearing for the State submits that,
the prayer for anticipatory bail of the petitioner was rejected by

this Hon'ble Court and that the prayer for anticipatory bail was allowed on a petition, which suppressed such fact.

Learned advocate appearing for the private opposite party is unable to dispute the fact that his client did not inform the jurisdictional Court of the order of rejection of the prayer for anticipatory bail while obtaining the order dated September 17, 2021.

It appears from the record that the petitioner approached the Hon'ble Court with the prayer for anticipatory bail by CRM 8530 of 2020, which was rejected on November 20, 2020. The petitioner, thereafter, filed an application for anticipatory bail being Criminal Misc. (Bail) Application No. 737 of 2021. A copy of such petition containing the prayer for anticipatory bail is annexed to this application.

We find from such petition that, the petitioner therein in paragraph 2(e) stated that no application for anticipatory bail was either filed or is pending before any Court or forum of similar jurisdiction including the Hon'ble High Court at Calcutta. Such statement made by the private opposite party is false and false to the knowledge of the private opposite party.

The Jurisdictional Court proceeded to consider the prayer for anticipatory bail without having the opportunity to advert to the order dated November 20, 2020 passed in CRM 8530 of 2020 by which the Hon'ble High Court rejected the prayer for anticipatory bail.

In such circumstances, the order dated September 17, 2021 passed in Criminal Misc. Case No. 737 of 2020 cannot be sustained. The bail granted by such order is cancelled.

The private opposite party will surrender before the Jurisdictional Court within seven days from date.

CRM (DB) 557 of 2022 is disposed of accordingly.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)