

27.06.2022
Serial no.80
Aloke

CRM (DB) 686 of 2022

In re : An application under Section 439(2) of the Code of Criminal Procedure.

In the matter of : **Dr. Subhasis Mitra**

... .. Petitioner

Mr. J. N. Chatterjee, Advocate

Ms. D. Mitra, Advocate

... .. For the Petitioner

Ms. Chandrani Bhattacharya, Advocate

Ms. B. Banerjee, Advocate

... ...For the Opposite Party No. 2

Mr. Sudip Ghosh, Advocate

Mr. Bitasok Banerjee, Advocate

... For the State

Affidavit-of-service filed in Court be taken on record.

Petitioner prays for cancellation of anticipatory bail granted
by the Order No. 4 dated February 4, 2022.

The cancellation is sought for on two grounds.

The first ground is that the order is perverse. The learned Judges failed to take into account the facts of the case. The private opposite party was supposed to procure a sum of Rs.12 crores for the purpose of investment in the company. In view of which, the private opposite party received a sum in excess of Rs.42 lakhs. The private opposite party did not bring such sum of investment although the private opposite party kept the sum in excess of Rs.42 lakhs. The sum in excess of Rs.42 lakhs that was paid to the private opposite party was for a consideration for the private party bringing for the investment of Rs.12 crores. Since the private opposite party, after receiving the consideration for sum in excess of Rs.42 lakhs, did not bring the assured investment, the private opposite party is guilty of cheating. The learned Judge erred in not taking into accounts of such fact while granting anticipatory bail.

The second ground for cancellation is post bail misconduct.

The learned Advocate appearing for the petitioner submits that the private opposite party threatened the petitioner subsequent to the grant of anticipatory bail. He refers to the complaint lodged with the police by the petitioners and the person receiving the threats.

State and the private opposite party are represented.

By the order dated February 4, 2022, the learned Judge proceeded to grant anticipatory bail after recording a finding that there was a professional relationship between the private parties. The learned Judge also held that the cheque spoken by is the police complaint was not utilized and that it was intact. The bank account was not operated by the private opposite, therefore, the learned Judge proceeded to grant anticipatory bail to the private opposite party.

As claimed by the petitioner in this petition, there is a jural relationship between the petitioner and the private opposite party. It involves investment in a company. Apparently, the private opposite party received brokerage for the purpose of investment. The issue as to whether such fact is correct or not requires evidence at the trial. There is an element of civil disputes between the private opposite parties. So far as post bail misconduct is concerned, there is hardly any convincing materials on record to arrive at a finding that the private opposite party is guilty of post bail misconduct.

In such circumstances, we are unable to interfere with the Order No. 4 dated February 4, 2022 enlarging the private opposite party on anticipatory bail.

CRM (DB) 686 of 2022 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

