

11.08.2022
Serial no.39 & 40
Dd

In re : An Application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure, 1973.

CRM (DB) 642 of 2022

The Central Bureau of Investigation

Vs.

Anup Mondal & Anr.

With

CRM (DB) 804 of 2022

The Central Bureau of Investigation

Vs.

Sujal Bar

Mr. S.V. Raju, Id. Addl. Solicitor General,
Mr. Samrat Goswami,
Mr. Anshuman Singh,
Mr. Ankit Bhatia,
Mr. Harsh Paul Singh, Advocates
... .. For the Petitioner

Mr. Angsuman Chakraborty,
Mr. Debabrata Sardar, Advocates
... ..For the Opposite Parties

Two petitions for cancellation of anticipatory bail filed by the Central Bureau of Investigation (CBI) are taken up for consideration analogously as they emanate out of the same police case.

The opposite parties in CRM (DB) 642 of 2022 were granted anticipatory bail by the Sessions Court by the order no. 3 dated January 13, 2022 while the opposite party in CRM (DB) 804 of 2022 was granted anticipatory bail by the Sessions Court by Order no. 2 dated February 7, 2022. Both the orders granting anticipatory bail proceeded on the basis of the perusal of the case diary, the submission of the charge sheet and the findings of the learned Sessions Judge that

custodial interrogation of the private opposite parties are not required in view of the filing of the charge sheet.

In the facts of the present case, the First Information Report was lodged on May 3, 2021.

A person was murdered.

The police investigated the police case and submitted a charge sheet bearing no. 237 of 2021 before the jurisdictional Court, *inter alia*, under Section 302 of the Indian Penal Code against six FIR named accused persons on August 18, 2021. The police, however, kept further investigations open.

CBI took up investigation in compliance with the order dated August 19, 2021 passed in the WPA(P) 142 - 149 & 167 of 2021. CBI registered a case on August 26, 2021 reregistering the First Information Report of the local police. During the investigations CBI came across diverse materials including statements recorded under Section 164 of the Criminal Procedure Code implicating all the opposite parties in the offence of murder.

CBI applied for cancellation of bail of other co-accuseds being CRM (DB) 628 of 2022 with CRM (DB) 629 of 2022 with CRM (DB) 630 of 2022. Such co-accuseds were involved in the same police case. Such applications for cancellation of bail were allowed by the order dated August 5, 2022 of the co-ordinate Bench.

The co-ordinate Bench obviously, considered the same materials in the case diary of CBI as available in the same police case.

So far as the private opposite parties are concerned, there are statements recorded under Section 164 of the Criminal Procedure Code implicating each of the private opposite party ascribing specific role to them in the offence of murder.

The Sessions Judge while granting anticipatory bail to the private opposite parties on January 13, 2022 and February 7, 2022 did not take into consideration the materials in the case diary of CBI.

There is substance in the contention of the private opposite parties that the statements recorded under Section 164 of the Criminal Procedure Code implicating the private opposite parties were post the order granting anticipatory bail.

No doubt, there are statements recorded under Section 164 of the Criminal Procedure Code post the two orders of granting anticipatory bail, then too, availability of new materials in the case diary is one of the grounds for cancellation of the anticipatory bail.

In the facts of the present case, there are several statements recorded under Section 164 of the Criminal Procedure Code, albeit, post the grant of the anticipatory bail so far as private opposite parties in CRM (DB) 642 of 2022 are concerned. So far as the private opposite party in respect of CRM (DB) 804 of 2022 is concerned, there subsists a statement recorded under Section 164 of the Criminal Procedure Code prior to the grant of the order of anticipatory bail, implicating such opposite party.

The learned Sessions Judge, therefore, failed to take into consideration the relevant materials on record as on February 7, 2022 so far as the private opposite parity in CRM (DB) 804 of 2022 is concerned. There are new materials in the case diary in the nature of fresh statements recorded under Section 164 of the Criminal Procedure Code implicating the opposite parties in CRM (DB) 642 of 2022 are concerned.

In such circumstances, we cancel the anticipatory bail granted in favour of the private opposite parties in CRM (DB) 642 of 2022 and CRM (DB) 804 of 2022.

CRM (DB) 642 of 2022 and CRM (DB) 804 of 2022 are **disposed of** accordingly.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)