

22.04.2022

Serial no.78

Dd

CRM (DB) 964 of 2022

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

-And-

**The State of West Bengal
Vs.
Golak Ghosh**

Mr. Madhusudan Sur, Id. APP
Mr. Dipankar Pramanick, Advocates
... ... For the Petitioner/State

Mr. Sudip Ghosh Chowdhury,
Mr. Sanjib Ghosh, Advocate
... ...For the private Opposite Party

Affidavit-of-service filed in Court to day be kept on record.

Petitioner prays for cancellation of the order of anticipatory bail granted by the order dated November 25, 2021 passed by the learned Sessions Judge, South 24 Parganas, Alipore in Criminal Misc. Case No. 6077 of 2021.

Learned advocate appearing for the petitioner submits that the learned Judge failed to take into consideration that Section 308 was added prior to the passing of the order. The learned Judge also did not take into consideration the statements of the injured eye-witnesses and the injury report of the victim at the time of passing of the order for anticipatory bail.

Learned advocate appearing for the private opposite party submits that the private opposite party cooperating with the investigations. He submits that anticipatory bail granted should not be cancelled.

The order granting anticipatory bail records that the learned Judge considered the submissions of both the sides, perused the case diary and considered the materials in the case diary, granted anticipatory bail.

With the deepest of respect, we are unable to find any reason being given by the learned Judge as to why the opposite party was entitled to anticipatory bail, in the order dated November 25, 2021.

In the case diary, there is one statement of the injured stating that the private opposite party was driving the vehicle rash and negligently. The driver was repeatedly told not to do so. Despite such request, the driver continued to drive the vehicle rash and negligently. Similar is the statement of the another eye-witness recorded under Section 161 of the Criminal Procedure Code.

The learned Judge erred in not considering the two statements as noted above, while granting anticipatory bail to the private opposite party.

Therefore, we cancel the anticipatory bail granted by the learned Sessions Judge by order dated November 25, 2021.

The private opposite party will surrender before the jurisdictional Court forthwith.

CRM (DB) 964 of 2022 is **disposed of** accordingly.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)