

12.05.2022
Serial no.77
Dd

CRM (DB) 1076 of 2022

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

-And-

In the matter of : The State of West Bengal
... ...Petitioner

Mr. Rudradipta Nandy, Advocate
... ... For the Petitioner/State

Mr. Ali Absan Alamgir,
Ms. Rabia Khatoon, Advocates
... ...For the opposite party no. 1

Mr. Achyut Basu,
Mr. Arijit Majumdar,
Ms. Sonam Basu, Advocate
... ...For the private Opposite party nos. 2 & 3

Petitioner seeks cancellation of the order passed on December 30, 2021 in CRM 9028 of 2021. The application is at the behest of the State. It is contended on behalf of the State that the opposite parties served an application for grant of bail in respect of Murshidabad Police Station case No. 360 of 2021, although, the application for bail was in respect of Nabagram Police Station Case No. 154 of 2021.

Learned advocate appearing for the petitioner draws the attention of the Court to the order dated March 17, 2022 passed in CRM (DB) 87 of 2022 with CRM 9028 of 2021. He submits that the conduct of the opposite parties and their learned advocate were noted in such order. The application

for cancellation was filed subsequent to the order dated March 17, 2022.

Learned advocate appearing for the private opposite party no. 1 submits that his client did not furnish any bail bond in terms of the order dated December 30, 2021 passed in CRM 9028 of 2021.

Learned advocate appearing for the opposite party nos. 2 and 3 submits that there is no post bail misconduct on the part of his clients.

The issue is not one of post bail misconduct. The issue is of the private opposite parties misleading the office of the learned Public Prosecutor and in turn the Court while obtaining the order dated December 30, 2021 passed in CRM 9028 of 2021.

The private opposite parties applied for bail in CRM 9028 of 2021 in respect of Nabagram P.S. Case no. 154 of 2021 dated June 21, 2021 whereas the private opposite parties and their advocate served a copy of such application containing details regarding Murshidabad P.S. Case no. 360 of 2021 dated August 17, 2021 upon the office of the Public Prosecutor. The copy of the bail application being CRM 9028 of 2021 served upon the office of the Public Prosecutor was such that the bail prayer was in respect of Murshidabad P.S Case No. 360 of 2021 while in fact the opposite parties were seeking bail in respect of Nabagram P.S Case No. 154 of 2021. Such misconduct of the learned advocate of the private opposite parties and the opposite parties was admitted by their advocate in Court on March 17, 2022 which was recorded in the order dated March 17, 2022 passed in CRM (DB) 87 of 2022 with CRM 9028 of 2021.

In such circumstances, since the private opposite parties are guilty of misleading the office of Public Prosecutor and in turn this Hon'ble Court in obtaining the order dated December 30, 2021 in CRM 9028 of 2021 the

bail granted in favour of the private opposite parties by such order is cancelled.

Private opposite parties Nos. 2 and 3 are directed to surrender immediately. In default appropriate steps be taken to secure their arrest and detention.

CRM (DB) 1076 of 2022 is disposed of accordingly.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)