

**07.02.2022**  
**Serial no. 66**  
Dd

**CRM 3435 of 2021**

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

**-And-**

**Estayaque Ahmed @ Istiyaqu Ahmed**  
**@ Gaffar Istak**  
**Vs.**  
**State of West Bengal & Anr.**

Mr. Kaustav Bagchi,  
Mr. Debayan Ghosh, Advocates  
... .. For the Petitioner

Mr. Tanmay Kr. Ghosh,  
Mr. Arindam Sen, Advocates  
... ..For the State

Mr. S. Panchal,  
Mr. S Barman, Advocates  
.. ...For the OP no. 2

Affidavits filed in Court be taken on record.

Petitioner seeks cancellation of bail.

Learned advocate appearing for the petitioner submits that the jurisdictional Court granted bail on March 13, 2020 on the conditions, *inter alia*, that the private opposite party shall not enter into the jurisdiction of North 24 Parganas until further orders except for attending the Court proceedings. He submits that not only such condition was not followed by the private opposite party but also the other condition imposed in such order that the private opposite party shall furnish the address where the private opposite party was residing to the Investigating Agency and

to the jurisdictional Court were also not complied with. He submits that the private opposite party contested an election at Jagaddal Assembly Constituency within the District of North 24 Parganas. He submits that the private opposite party was accused of committing heinous crime of murder. The jurisdictional Court did not take into consideration the gravity of the offence and the involvement of the petitioner therein in granting bail to the private opposite party on March 13, 2020. He draws the attention of the Court to the affidavit-in-opposition of the private opposite party, where the private opposite party claims that he was not aware of such conditions for bail. He contends that ignorance of law cannot be any excuse to the flagrant violation of the conditions for bail.

State and the private opposite party are represented.

Learned advocate appearing for the private opposite party submits that the private opposite party was set up to contest the election. He did so without knowing the impact or ramification thereof. His failure to follow the conditions of bail was not deliberate. Learned advocate appearing for the private opposite party submits that the Hon'ble Supreme Court took note of the ongoing pandemic and suspended the period of limitation since March 8, 2020.

Suspension of period of limitation by the Hon'ble Supreme Court is in relation to original proceeding. Even if the same is imputed to the conditions granting bail by the jurisdictional Court on March 13, 2020 is concerned, then also, at best, the private opposite party can claim extension of time to provide the address where the private opposite party was presently residing to the Investigating Agency and to the jurisdictional Court. The order of the Hon'ble Supreme Court, with the deepest of respect, extending the time for limitation cannot be applied for the purpose of other conditions of bail which requires the private opposite party

not to enter the jurisdiction of the North 24 Parganas District until further orders except for attending the Court proceedings.

In the facts of the present case, it is admitted that the private opposite party contested the election subsequent to the order dated March 13, 2020, from an Assembly Constituency which is within the jurisdiction of North 24 Parganas District and that he campaigned in support of his candidature within such District.

We are unable to accept the explanation offered by the private opposite party in his affidavit that he was ignorant of the conditions for grant of bail.

In the circumstances, given the gravity of the offence and the involvement of the private opposite party therein and given the conduct of the private opposite party in not complying with the conditions of bail granted by the jurisdictional Court on March 13, 2020, we cancel the bail granted in favour of the private opposite party.

The private opposite party shall surrender before the jurisdictional Court within 7 days from date.

CRM 3435 of 2021 is **disposed of** accordingly.

**(Debangsu Basak, J.)**

**(Bibhas Ranjan De, J.)**