

48 18.07.2022
(AD)
Court No.29

C.R.M. (DB) 1267 of 2022

In Re: - An application for cancellation of anticipatory bail under Section 439(2) of the Code of Criminal Procedure, 1973.

And

In the matter of: - Sanjukta Das

...petitioner.

Mr. Sourav Chatterjee
Mr. Tanmoy Khan

... for the petitioner.

Ms. Amita Gaur

... for the State.

Mr. Saryati Datta
Mr. Sanjib Kumar Dan

... for the opposite party no.2.

Petitioner seeks cancellation of anticipatory bail granted by the learned Sessions Judge, Birbhum, Suri, by the Order No.03 dated January 12, 2022 passed in Criminal Misc. Case No.10 of 2022.

Learned Advocate appearing for the petitioner submits that the petitioner was lured into a marriage with the private opposite party no.2. However, a valid marriage subsisted between the opposite party no.2 and another person. He submits that the marriage between the petitioner and the opposite party no.2 was held on August 1, 2021. He refers to a decree for divorce between the opposite party no.2 and his first wife which is dated April 26, 2022. Consequently, on the date of marriage on August 1, 2021, the opposite party no.2 was married to a different person and that fact was suppressed from the petitioner. The learned Judge did not take into consideration such aspect of the matter. The learned

Judge granted anticipatory bail to the private opposite party no.2. He contends that the order granting anticipatory bail is perverse.

State and the private opposite party no.2 are represented.

Learned Advocate appearing for the State submits that there is a criminal antecedent so far as the opposite party no.2 is concerned. There is a police complaint, *inter alia*, under Sections 493/376(2)(n) of the Indian Penal code as against the opposite party no.2.

Learned Advocate appearing for the private opposite party no.2 submits that the complaint of a previous marriage is not there in the First Information Report. There was a long relationship between the petitioner and the private opposite party. Subsequently, the marriage occurred. He submits that the opposite party no.2 is a doctor by profession and is working in the Government.

The opposite party no.2 claims to be married to the petitioner on August 1, 2021. As on date, the opposite party no.2 was married to a different person. A decree for divorce between the opposite party no.2 and the different person occurred on April 26, 2022. There was no material either in the case diary or in the case of this case to suggest that the opposite party no.2 made the petitioner aware of his subsisting marital relationship on the date of the opposite party no.2 claiming to marry the petitioner on August 1, 2021. This aspect of the matter was not taken into consideration by the learned Judge while granting anticipatory bail in favour of the opposite party no.2.

In such circumstances, we cancel the anticipatory bail

granted to the opposite party no.2 on January 12, 2022 by order no.3 passed in Criminal Misc. Case No.10 of 2022 by the learned Sessions Judge, Birbhum at Suri. Bail, if any, granted in terms of such order is also cancelled.

C.R.M. (DB) 1267 of 2022 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)