

62 10.08.2022
(AD)
Court No.29

C.R.M. (DB) 1408 of 2022

In Re: - An application for cancellation of anticipatory/pre-arrest bail under Section 439(2) read with Section 482 of the Code of Criminal Procedure, 1973.

And

In the matter of: - Victim Girl (Minor), represented by her father.
...petitioner.

Mr. Satadru Lahiri
Mr. Safdar Azam ... for the petitioner.

Mr. Neguive Ahmed, Ld. APP
Ms. Amita Gaur
... for the State.

Mr. Malay Bhattacharyya
Mr. Subhrojyoti Ghosh
... for the opposite party no.2.

Petitioner prays for cancellation of the order of anticipatory bail dated January 31, 2022 granted in favour of the private opposite party.

Learned Advocate appearing for the petitioner submits that the private opposite party applied for anticipatory bail being CRM 7239 of 2021 where the private opposite party did not allude to his alleged hospitalization in a nursing home which was subsequently claimed before the jurisdictional Court.

State and the private opposite party are represented.

The case diary shows that the police seized documents relating to the hospitalization of the private opposite party in the nursing home concerned.

In such circumstances, the issue as to whether the private

opposite party was actually hospitalized at the material point of time as claimed or not is an issue of fact which should ideally look into by the trial court, if so raised, at the time of trial.

We, therefore, not in a position to come to a conclusive finding from the materials on record that the impugned order suffers from perversity. Consequently, we are unable to cancel the bail granted in favour of the private opposite party.

C.R.M. (DB) 1408 of 2022 is disposed of accordingly.

Affidavit-in-opposition filed in Court be taken on record.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

