

CRM (DB) 2028 of 2022

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

-And-

In the matter of : **Sekendar Khan**

... .. Petitioner

... .. Petitioner

Mr. Angshuman Chakraborty, Advocate

Mr. S.S. Saha, Advocate

... .. For the Petitioner

Ms. Zareen N. Khan, Advocate

Mr. Ashok Das, Advocate

... ..For the State

Mr. Md. Sarwar Jahan, Advocate

Mr. Maidul Islam Kayal, Advocate

... .. For the opposite party nos. 2 to 14

Affidavits filed in Court be taken on record.

Petitioner prays for cancellation of the anticipatory bail granted by the Sessions Court on June 9, 2022.

Learned Advocate appearing for the petitioner submits that the learned Judge proceeded on an erroneous appreciation of materials facts.

Learned Judge proceeded on the basis that compliance of Section 41A of the Code of Criminal Procedure was sufficient to grant anticipatory bail. Moreover, forged death certificate was not seized by the State.

Learned Advocate appearing for the State reliance upon instruction which be taken on record.

The private opposite parties are represented.

There are two grounds canvassed for cancellation of the anticipatory bail. One ground is the erroneous appreciation of material facts and the other is post bail mis-conduct. On erroneous appreciation of material facts, we find from the order that the learned Judge proceeded to consider the materials in the case diary. He discussed the materials which he deemed to be appropriate and proceeded to exercise the jurisdiction in a particular way.

We find no material irregularity in the exercise of such discretion warranting interference by us.

So far as the post bail mis-conduct is concerned, the allegations remain unsubstantiated at this stage.

In such circumstances, we are unable to cancel the anticipatory bail granted in favour of the private opposite parties.

CRM (DB) 2028 of 2022 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)