

16.09.2022
tkm/ct 28
sl no. 36

C.R.M. (DB) 2124 of 2022

In Re : An application for cancellation of bail under section 439(2)
of the Code of Criminal Procedure for cancellation of bail
And

In re : Suchandrika Sudhanshu Das petitioner

Mr. Sanat Kr. Das
Mr. Sujan Chatterjee
Mr. Anirban Guhathakurta
..... for the petitioner

Mr. S S Imam
Mr. S Kundu
..... for the State

Mr. Abhimanyu Shandilya
Mr. M Chakraborty
..... for the OP nos. 2, 3 and 4

Mr. Chatterjee submits opposite party nos. 2 to 4 had suppressed the rejection of their prayer for pre-arrest bail and procured an order of bail from the Magistrate on the very day they appeared before the court below. Learned Magistrate also did not consider the fact that the FIR was registered under section 377 IPC.

Learned counsel for opposite party nos. 2 to 4 at the outset apologizes for such non-disclosure. He submits due to inadvertence the aforesaid fact had not been placed before the Magistrate. He, however, contends graver offence under section 377 IPC has been deleted from the charge sheet. Opposite party nos. 2 to 4 had co-operated during investigation and had not misused their liberty.

Learned lawyer for the State submits offence under section 377 IPC was deleted from the charge sheet.

We have considered the materials on record. We note that the court below took exception to the conduct of opposite party nos. 2 to 4 who had failed to disclose the rejection of their pre-arrest bail by this Court. However, we note charge sheet has been filed and graver offence under section 377 IPC has not been arrayed in the charge sheet.

Mr. Chatterjee, however, submits proper investigation in the matter had not been done.

Be that as it may, as most of the offences in the charge sheet are bailable and there is no allegation of misuse of liberty, we are not inclined to interfere with the interim bail granted to opposite party nos. 2 to 4.

We, however, reiterate the sentiment of the learned Magistrate and record our disapproval at the conduct of opposite party nos. 2 to 4 herein in failing to disclose the rejection of anticipatory bail by this court at the time of consideration of their bail prayer.

With this observation, CRM (DB) 2124 of 2022 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)