

07.03.2022

Sl. 85
Court No.29
Suvayan

CRM 7572 of 2021

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

And

In the matter of: The State of West Bengal

....petitioner.

Mr. Saswata Gopal Mukherjee, Ld. PP

Mr. Rnadeb Sengupta

... for the petitioner.

Mr. Krishnendu Bhattacharya

Mr. Priyankar Ganguly

Ms. Shalini Bairagi

...for the opposite party.

State seeks cancellation of bail granted by the jurisdictional Court by the order dated March 15, 2021.

Learned Public Prosecutor submits that the learned judge proceeded to grant bail without considering the provisions of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. He relies upon the judgement and order dated February 23, 2022 passed by this Hon'ble Court in CRM 6319 of 2021.

The private opposite party is represented.

Learned Advocate appearing for the private opposite party submits that the private opposite party did not invite the Court to grant bail under Section 36A(4) of the Narcotic Drugs and Psychotropic Substances Act, 1985. Rather, the private opposite party sought bail on the ground of default in filing the charge-sheet along with chemical report.

In (Bapi Billa Gazi @ Billu & Ors.) this Hon'ble Court dealt with contentions raised on behalf of the private opposite party. In such case, the bail granted in favour of such accused was cancelled. Applying the ratio of Bapi Billa Gazi @ Billu & Ors.

(Supra) in the facts of the present case, we are of the view that the order dated January 18, 2021 cannot be sustained. The same is set aside.

Moreover, the learned Judge did not consider Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Commercial quantity of narcotics was seized from the possession of the private opposite party.

Accordingly, we allow the application for cancellation of bail. The private opposite party is directed to surrender to the custody within one week from the date of the order, failing which the jurisdictional court will take appropriate steps.

Accordingly, CRM 7572 of 2021 is, thus, disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)