

16.08.2022
Serial no.48
Aloke

CRM (DB) 2775 of 2022

In re : An Application under Section 439(2) of the Code of Criminal Procedure, 1973.

-And-

In the matter of : **The State of West Bengal**

... ... Petitioner

Mr. Rudradipta Nandy, Id. APP

Mr. Saryati Datta, Advocate

... ... For the petitioner

Mr. Mazhar Hossain Chowdhury, Advocate

Ms. M. Alam, Advocate

... ... For the O.P./Accused

State prays for cancellation of the anticipatory bail granted to the opposite party on August 1, 2022 on the ground that the State could not draw the attention of the Court to the relevant fact as to issuance of warrant of proclamation of attachment and arrest as against the opposite party on such date.

The reason cited for not bringing such essential fact to the notice of the Court on August 1, 2022 is that, there were two applications for anticipatory bail filed in respect of the same police case. The original case diary was given to one learned Advocate for the State to oppose the application for anticipatory bail and for the other application for anticipatory bail, photocopy of the case diary was given to the learned Advocate for the State.

The photocopy of the case diary did not contain the relevant documents with regard to the issuance of warrant of proclamation of attachment and arrest as against the opposite party.

Learned Advocate for the State submits that the warrant of proclamation of attachment and arrest was served upon the petitioner and that the wife of the petitioner received the same on July 18, 2022.

Learned Advocate for the opposite party submits that the petitioner was in Kolkata at the material point of time for the purpose of treatment of the daughter of the petitioner. He submits that the wife of the petitioner was not served with the warrant of proclamation of attachment and arrest.

There is a warrant of proclamation of attachment and arrest issued as against the opposite party. Such warrant was issued prior to the order dated August 1, 2022.

An order passed by the Court erroneously without taking into consideration of relevant fact can be recalled.

In such circumstances, we recall the order dated August 1, 2022 granting anticipatory bail to the opposite party.

All steps taken pursuant to such order so far as the opposite party is concerned are cancelled.

CRM (DB) 2775 of 2022 is disposed of accordingly.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)