

C.R.M. 8657 of 2021

13.05.2022
Sl. 92
Court No.29
Sourav
(Allowed)

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

And

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

....petitioner/State.

Mr. Ranabir Roy Chowdhury
Mr. Sandip Chakraborty
Mr. Mainak Gupta

...for the petitioner/State.

Affidavit-of-service filed in Court be taken on record.

None appears for the private opposite parties, despite service.

The application is at the behest of the State.

State seeks cancellation of the bail granted by the order dated October 18, 2021 in favour of the private opposite parties.

Learned advocate appearing for the State submits that the private opposite parties were identified in the Test Identification Parade. The private opposite parties do not stand in the same footing as that of Biplob Roy @ Bappa who was granted bail by the jurisdictional court in Misc. Case No. 1481 of 2020.

The learned judge while granting bail to the private opposite parties on October 18, 2021 took into account the fact that the private opposite parties stood on the same footing as that of the co-accused Biplob Roy @ Bappa who was enlarged on bail. The learned judge also took into account that no gold was recovered from the accused persons. He also took into account the period of detention of the private opposite parties.

In the facts of the present case, Biplob Roy @ Bappa was subsequently discharged. The private opposite parties herein do

not stand in the same footing as that of the co-accused Biplob Roy @ Bappa inasmuch as the private opposite parties herein were identified in the Test Identification Parade along with three other co-accused. There are Close Circuit Television footage implicating the private opposite parties in the incident of dacoity and the gun shot injury suffered by the victim. Period of detention cannot be the sole criterion for grant of bail.

The learned judge while granting bail to the private opposite parties did not take such material in the case diary into consideration.

In such circumstances, we are constrained to cancel the bail granted in favour of the private opposite parties granted on October 18, 2021 by the learned vacation judge, Purba Bardhaman.

C.R.M. 8657 of 2021 is disposed of accordingly.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

