

14.07.2023.
57.
Ct.No.28.
as

C.R.M. (DB) 342 of 2023

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

In the matter of : Ashim Mondal.

... Petitioner.

Mr. Santanu Deb Roy,
Mr. D. Guha.

...for the Petitioner.

Mr. Debabrata Chatterjee, Id. A.P.P.,
Mr. Santanu Chatterjee,
Ms. Moushumi Sarkar.

....for the State.

Ms. Madhushri Dutta.

...for the Opp. Party No.2.

Petitioner has assailed order dated 11.10.2022 granting bail to opposite party No.2. It is contended bail prayer of opposite party no.2 was turned down by this Court on 30th June, 2022. Suppressing such fact, bail was obtained.

Opposite party No.2 submits there was typographical error in the petition and there was no *mala fide* intention on their part to suppress relevant facts. It is also contended investigation is complete and the opposite party no.2 is not the principal accused.

We have considered the materials on record. Opposite party no.2 did not state before the learned Sessions Judge-in-charge that the bail prayer of the petitioner was rejected by this Court on 30th June, 2022. This is wholly inappropriate and on such consideration itself, the order ought to be set aside. However, we note that the learned Sessions Judge-in-charge had examined the case in a threadbare manner on merits. Opposite party no.2 is the step mother-in-law of the victim lady. She is not the principal

accused. Statement of the minor son recorded under Section 164 of the Code of Criminal Procedure which had weighed this Court to reject the bail earlier is at variance to his statement recorded under Section 161 of the Code of Criminal Procedure vis-a-vis role of opposite party no.2. Admittedly, she is not the principal accused. She is an elderly lady and there is no chance of her abscondence.

Though the conduct of the opposite party no.2 in failing to disclose the earlier rejection is not appreciated, in the aforesaid factual backdrop we are of the opinion no worthwhile purpose would be served to cancel her bail and commit her to custody.

Hence, the application for cancellation of bail is accordingly disposed of.

We are informed the opposite party no.2 is a neighbour and there is likelihood that she may influence witnesses including minor child.

Under such circumstances, we direct the petitioner while on bail shall not enter the jurisdiction of New Town Police Station and shall provide the address where he shall reside to the Investigating Officer as well as the court below and report to the Officer-in-charge of the Police Station concerned within whose jurisdiction he shall reside once in a week until further orders.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

