

15.05.2023

Serial no.43

Dd

CRM 1043 of 2021

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

-And-

In the matter of : Hajrat Molla @ Hazrat Molla

... ..Petitioner

Mr. Subhabrata Chowdhury,
Ms. Tripti Pandey,
Mr. Mohit Sarkar, Advocates
... .. For the Petitioner

Mr. Imran Ali,
Ms. Debjani Sahu, Advocates
... ..For the State

Petitioner seeks cancellation of the order dated November 19, 2020 granting anticipatory bail to the private opposite party no. 1 on the ground of suppression of material fact.

The application was pending for a considerable period of time.

By an order dated May 2, 2023, the police were requested to communicate the factum of pendency of the present application to the private opposite party no. 1.

Learned advocate appearing for the State submits a report which be taken on record. The report states that the private opposite party no. 1 was contacted over her mobile phone and informed about the pendency of the application. Since she was not found at her residence, her son was served with the copy of the application.

None appears for the private opposite party no. 1 despite service.

Private opposite party no. 1 was enlarged on anticipatory bail by an order dated November 19, 2020 after

recording the contention of the private opposite party no. 1 that no application under Section 438 of the Criminal Procedure Code was either rejected or was pending in the Court or before the Hon'ble Court prior to the application.

The record demonstrates that, by Order no. 4 dated January 4, 2020 passed by the learned Sessions Judge, South 24 Parganas, Alipore in Criminal Misc. Case no. 7790 of 2019, application under Section 438 of the Criminal Procedure Code of the private opposite party no. 1 in respect of the involved police case was considered and rejected.

Consequently, the materials made available on record establishes that the private opposite party no. 1 obtained the order dated November 19, 2020 suppressing the material fact with regard to the previous application for anticipatory bail. The private opposite party no. 1 did not bring to the notice of the Court that her earlier application for anticipatory bail stood rejected on January 4, 2020 and that the application which was allowed was essentially an application renewing the prayer for grant of anticipatory bail. On the contrary, private opposite party no. 1 submitted before the sessions Judge that, no previous application for anticipatory bail was pending or rejected by the Court or by the High Court.

In such circumstances, we are constrained to cancel the anticipatory bail granted to the private opposite party no. 1 on November 19, 2020.

All consequential steps taken in terms of such order are also cancelled.

Private opposite party no. 1 will surrender before the jurisdictional Court within four weeks from date. In default, the trial Court will take appropriate steps.

CRM 1043 of 2021 is disposed of accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)