

10.05.2023.
74.
Ct.No.28.
as

C.R.M. (DB) 628 of 2023

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

In the matter of : The State of West Bengal.
... Petitioner.

Mr. Rudradipta Nandy, Id. A.P.P.,
Mrs. Sonali Das.
....for the State/Petitioner.

Mr. Pradip Kr. Mondal,
Mr. Arka Mondal.
....for the Opp. Party.

Petitioner/State assails order granting bail to opposite party/husband. It is contended learned Judge has misread the dying declaration. Dying declaration also refers to the opposite party/husband as one of the accused who tortured the victim and compelled her to commit suicide.

Learned Advocate for the opposite party/husband submits name of petitioner was subsequently incorporated in the dying declaration through over writing.

We have considered the materials on record. We have also examined the dying declaration. Manner of recording of dying declaration gives an impression complicity of the petitioner may have been incorporated later on. Even otherwise, allegation against the petitioner is generic and refers to ill-treatment on earlier occasions. It does not pertain torture and ill-treatment of

the housewife on the date of occurrence which is solely attributed to her mother-in-law and brother-in-law.

Hence, we are unable to accept the contention of the learned Advocate for the petitioner that the learned Judge had misread the dying declaration. No allegation of misuse of liberty is placed before us.

Hence, we do not wish to interfere with the order granting bail to the petitioner.

Needless to mention, observations herein are tentative and would not have any bearing during trial which shall be adjudicated independently and in accordance with law on the basis of evidence on record without being prejudiced by the aforesaid observations.

Accordingly, the application of cancellation of bail is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)