

27.04.2023
Serial no.59
Dd

CRM (DB) 1192 of 2023

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 : Tauqir Raza

... ..Petitioner

Mr. Angshuman Chakraborty,
Mr. Shashanka Shekhar Saha, Advocates
... .. For the Petitioner

Ms. Zareen N. Khna,
Mr. Arup Sarkar, Advocates
... ..For the State

Ms. Sreyashee Biswas,
Md. Zahid Abedin, Advocates
... ..For the private Opposite Party

In assailment is the Order no. 4 dated March 14, 2023 passed by the Learned Sessions Judge, South 24-Parganas, Alipore granting anticipatory bail to the private opposite party in Criminal Misc. Case No. 729 of 2023.

Learned advocate appearing for the petitioner submits that the learned Judge did not consider the materials in the case diary in the correct prospective. Learned Judge failed to take into account the gravity of the offence and the involvement of the private opposite party in the incident. He points out that the private opposite party was present at the place of occurrence and identified by the injured. The injured suffered deep cut injury on the neck by a sharp cutting weapon capable of murdering the petitioner.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary including the injury report of the petitioner and his statement recorded under Section 161 of the Criminal Procedure Code. On a query of the Court, he submits that, the injured is yet to record a statement under Section 164 of the Criminal Procedure Code.

Learned advocate appearing for the private opposite party submits that no specific role was ascribed to the private opposite party. The impugned order is otherwise detailed. The private opposite party is not guilty of any post bail misconduct.

Perversity and post bail misconduct are two grounds which are available for the purpose of cancelling an anticipatory bail granted by the Sessions Court.

In the present case, ground of perversity of the impugned order is pressed into service at the behest of the petitioner.

The injured suffered deep cut injury on his neck. A *prima facie* case of attempt to murder stands made out.

The injured recorded a statement under Section 161 of the Criminal Procedure Code which names two persons as the assailants who used the sharp cutting weapon. So far as the private opposite party herein is concerned, it is said that he dealt with fists and blows on him.

In view of such role being ascribed by the victim so far as the private opposite party is concerned, we are minded not to interfere with the order granting anticipatory bail to the private opposite party.

CRM (DB) 1192 of 2023 is accordingly, **dismissed**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)