

19.09.2023
Sl. No.42
akd

C. R. M. (DB) 3630 of 2023

In Re : An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure filed on 12.09.2023 :

A N D

In Re : Subhas Samanta

... Petitioner

Mr. Soumyajit Das Mahapatra
Ms. Madhurai Sinha

... .. for the petitioner

1. Petitioner has assailed order dated 28.07.2023 granting bail to opposite party nos.2 & 3.
2. It is contended opposite party nos.2 & 3 had cheated the petitioner on the false promise of giving employment. Noticing the gravity of the offence this Court had repeatedly rejected the bail applications. It was even rejected by the Hon'ble Apex Court. This was not taken into consideration by the trial court while granting bail to opposite party nos.2 & 3. Hence, their bail may be cancelled.
3. We have examined the order granting bail. Bail had been granted to opposite party nos.2 & 3 on the ground of delay in trial and not on merits. Opposite party nos.2 & 3 had suffered incarceration for more than four years but charge has not yet been framed.
4. It may be apposite to note that the Apex Court while rejecting the bail prayer in July, 2022 had observed that trial be concluded within six months from the date of communication of the order. More than a year has lapsed since then but charge has not been framed. Under such circumstances, trial Judge enlarged opposite party nos.2 & 3 on bail in view of infraction of their fundamental right to speedy trial. Grant of bail to opposite party nos.2 & 3 on this score is unexceptionable.

5. Cancellation of bail stands on a different footing than consideration of bail. In the present case, order granting bail is neither unreasonable nor perverse. Nothing is placed on record to show opposite party nos.2 & 3 after being released on bail have misused their liberty.
6. Under such circumstances, we do not find any merit in the prayer for cancellation of bail.
7. CRM (DB) 3630 of 2023 is accordingly, dismissed.

(Ajoy Kumar Mukherjee, J.)

(Joymalya Bagchi, J.)